

**Beaufort Sea Oil and Gas Lease
Sale 170**

Public Hearings

Anchorage

1997

1 UNITED STATES DEPARTMENT OF THE INTERIOR
2 MINERALS MANAGEMENT SERVICE

3 OFFICIAL TRANSCRIPT

4 MEETING OF THE ALASKA OCS REGIONAL ADVISORY COMMITTEE
5 RE: BEAUFORT SEA PROPOSED OIL AND GAS LEASE SALE 170

6
7 Held At:
8 Minerals Management Service
9 3rd Floor Conference Room
10 949 East 36th Avenue
11 Anchorage, AK 99508

12
13 Tuesday, August 5, 1997
14 9:16 o'clock a.m.

15 COMMITTEE MEMBERS PRESENT:

16 Mr. John Goll - Regional Director, MMS
17 Mr. Patrick Coughlin - Department of Natural Resources
18 Mr. Glenn Gray - Alaska Division of Governmental Coordination
19 Mr. J. Patrick Foley - ARCO Alaska, Inc.
20 Mr. E. Peter Zseleczky, Jr. - BP Exploration (Alaska), Inc.
21 Mr. Thomas Napageak - Nuiqsut Representative
22 Mr. Burton Rexford - Barrow Representative
23 Mr. Fenton Rexford - Kaktovik Representative
24 Mr. Brad Smith - National Marine Fisheries Service
25 Mr. Matthew Eagleton - National Marine Fisheries Service
Mr. Patrick Sousa - U.S. Fish and Wildlife Service

OTHERS PRESENT:

Mr. Bob Brock, Special Assistant to the Director
Mr. Ray Emerson, Chief, Environmental Assessment Section
Mr. Paul Stang, MMS
Ms. Robin Casey, MMS
Mr. Tom Warren, MMS
Mr. Larry Cooke, MMS
Ms. Terry Holman, MMS
Ms. Michele Hope - MMS Coordinator
Mr. Tom Lohman - North Slope Borough
Mr. Richard Carl - Recorder, Executary Court Reporting

Proceedings recorded by electronic sound recording. Transcript produced by transcription service.

1 I'm sitting in for Diane Mayer, the Director of Governmental
2 Coordination.

3 MR. FENTON REXFORD: I'm Fenton Rexford. I live in
4 Kaktovik. I work as the Village Liaison to the North Slope
5 Mayor's Office.

6 MR. COUGHLIN: I'm Patrick Coughlin. I'm the Deputy
7 Director of the Division of Oil and Gas for the State of
8 Alaska.

9 MR. FOLEY: I'm Pat Foley with ARCO Alaska, and I've
10 been involved with exploration and land work here in the state
11 since 1983.

12 MR. EAGLETON: I'm Matthew Eagleton, National Marine
13 Fisheries Service, sitting in for Brad Smith.

14 MR. NAPAGEAK: Thomas Napageak, Captain of Alaska
15 Whaling Commission. I'm from Nuiqsut.

16 MR. BURTON REXFORD: Burton Rexford from Barrow,
17 Alaska.

18 MR. ZSELECZKY: Good morning. I'm Pete Zseleczy.
19 I'm the Land Manager for BP.

20 MR. GOLL: Okay. Thank you. And if we could go
21 around the room, please.

22 MR. LOHMAN: I'm Tom Lohman with the Wildlife
23 Department of the North Slope Borough.

24 MR. COOKE: I'm Larry Cooke with Minerals Management
25 Service.

1 MR. STANG: I Paul Stang with Minerals Management
2 Service.

3 MR. BROCK: Bob Brock with Minerals Management
4 service.

5 MS. CASEY: Robin Casey with MMS.

6 MR. WARREN: Tom Warren with MMS.

7 MS. HOPE: I'm Michele Hope and I'm the coordinator
8 of this committee.

9 MR. GOLL: For logistics, there are restrooms if you
10 go out the door here, go past the elevators and just to the
11 right. I think, as you have discovered, this is a no smoking
12 building. There is a smoking room on the first floor. If you
13 want to know where that is, someone will have to guide you
14 there, or again, smoking outside the building. If you need
15 breaks, just let us know. There is coffee over here and some
16 donuts if anybody needs any extra energy of that type.

17 As I mentioned Cathy and Michele will be helping with
18 regards to any logistics so any questions that you have just
19 ask them to assist you. Quickly, there is a number of material
20 in front of you. We had hoped to get some of this to you
21 before the meeting, but because the comment period was extended
22 through the end of last week, we weren't able to send copies to
23 everybody. What we have before you, is some of the material
24 that we may want to refer to, through the meeting.

25 There are two volumes. Volume one you see here is

1 the agenda for the meeting. It contains some suggestions on
2 protocol that we will discuss in a few minutes, the charter of
3 the committee under which we will be operating, and the
4 "Federal Register" notice of the meeting, and a map of the area
5 for Sale 170. We had sent you summaries of the mitigating
6 measures and the alternatives, but what we have here in the
7 book, again, is the exact language that we will be using, that
8 was used within Sale 170 of the draft EIS, that we can use for
9 our discussion today.

10 Likewise the alternatives, and we have summaries of
11 several public hearings that we held. That primarily is the
12 first volume. The second volume is all the comments that we
13 have received on the sale. There is a summary in the front of
14 the people that we have received comments from. So any
15 comments that were sent in, you have them available right here
16 in case we need to be referring to them during the meeting. Is
17 there any questions with regard to the logistics or materials?

18 (No audible response)

19 MR. GOLL: What we plan to do today, just quickly
20 looking over the agenda, which is on the first tab of the next
21 topic, would be to go into a little bit of the committee
22 protocol and then a series of what I hope will be relatively
23 quick presentations by MMS staff to, again, give an overview of
24 where we are with regards to the sale, a summary of what our
25 expectations are with regard to the sale and oil and gas

1 activities, and then finally, what we were evaluating within
2 the EIS with regards to the issues, the proposal alternative
3 that we were evaluating in the mitigation measures, and the
4 comments that we have received.

5 And then the rest of the meeting is primarily
6 discussion. What I wanted to mention first is the purpose of
7 this committee. During the five-year plan, I think that
8 several of you were involved in or testified before a group
9 that was put together by the OCS Policy Committee, which was a
10 group of stakeholders, to help identify what areas should MMS
11 consider for sales in the five-year plan. Many people thought
12 that this was a very good approach in making sure that we in
13 the federal government were hearing what the concerns are from
14 all the stakeholders, from the communities on the North Slope
15 from industry, from the State, from the different environmental
16 groups and so on.

17 And then last year as Sale 144 was being discussed,
18 there were groups that were put together, and especially the
19 one that went over the mitigation measures that, again, some of
20 you may have participated in, to review, again, what mitigation
21 would be needed for a sale on the North Slope and the Beaufort
22 Sea.

23 As a follow-on to that, the Policy Committee
24 recommended that a group be put together for assistance to MMS
25 on particular lease sales, and so this group, the Alaska

1 Offshore Advisory Committee, has been put together, again, to
2 get advice from you on how we should structure the lease sale
3 and ultimately where we should be going with it. It's advice,
4 again, to us along this line.

5 The charter of the committee, if you noticed, just
6 very briefly, refers to a forum to collectively and jointly
7 make recommendations on the sale. So, again, what is valuable
8 to us is to hear what is really important as we consider the
9 sale. Now, the person that you are giving advice to is me, by
10 the charter; however, anything that is brought up here, of
11 course, will be going, you know, not just to me, but to the
12 other MMS managers, our Director, and also to the Secretary of
13 the Interior.

14 So I think, again, it is important that we have good
15 discussion, see where we can come up we a consensus where we
16 can; if we can't, again, what's most valuable is to try and
17 make sure that the different viewpoints are expressed so that,
18 again, can be relayed as we are trying to make decisions on the
19 sale.

20 This committee was not put together before the sale,
21 so in a sense, we're starting midway through. Normally with
22 one of these groups, we would try to meet before the sale,
23 actually, any planning starting with the sale, to get an idea
24 of what we should be offering, things of that nature. So in
25 one sense we're starting in the middle of the process, looking

1 at the comments we have received on the draft and starting to
2 plan towards what we should be evaluating for the final EIS.

3 The purpose for this meeting is, as I think I've
4 mentioned to all of you on the phone in the last week or so, is
5 we are going to be trying to look at the alternatives that we
6 have evaluated in the draft EIS to see if there are others we
7 should be considering, or should they be changed in any way.
8 And likewise, what the mitigation measures are that we should
9 be evaluating, or should we be making some changes to them.

10 It's still premature to go into what should the
11 recommendation for the sale itself be. That we would plan for
12 a follow-up meeting, and I would want to discuss when a good
13 time for that meeting would be, but sort of hold that
14 conversation off until we have pretty much gone through the
15 meeting because it might become apparent when that might be.

16 So, in essence, what we are looking for from this
17 meeting are the alternatives. I will use the word "deferral
18 areas" and so on because that is used a lot within the EIS.
19 Are they the proper ones that we should be evaluating, and
20 likewise, the mitigation, is it appropriate?

21 Any questions or comments?

22 (No audible response)

23 MR. GOLL: If not, what I would like to do next is
24 again, because this is the very first of these meetings, we
25 don't have a set of guidelines as to how exactly you want to

1 run this committee. What I put on the next tab, which I think
2 is labeled meeting procedures and guidelines, there is a piece
3 of paper on suggestions on protocol. This committee is
4 chartered under the Federal Advisory Committee Act. So that
5 means there are certain requirements that we must follow, that
6 I have tried to highlight very briefly on this piece of paper.

7 We have to have an agenda which you have before you,
8 and likewise, we have to notify people through the "Federal
9 Register." This meeting is open to the public, and we do have
10 allotted on this schedule for any comments from the public this
11 afternoon. We will be taking minutes for the meeting. Rich
12 Carl is over transcribing what we're saying. Also these
13 committees have to have a designated federal official, which is
14 myself.

15 Now, one point of discussion that I would like to
16 have in a minute is that under the Committee Act, the federal
17 official can chair the committee. However, it is often
18 recommended that that not be done but, rather, that the
19 committee elect a chair or co-chair, or identify someone to
20 work with me in this case, to help manage the meeting and
21 information and things of that nature. So I would like to come
22 back to that in a minute, as to how you would like to run this
23 committee with regard to that.

24 Just as a point of note, federal agency
25 representatives can fully participate in the discussion, but if

1 we end up taking votes, they would not be voting, so that would
2 be representatives Matthew Eagleton and Pat Sousa.

3 Likewise you can also have subcommittees or groups
4 that might meet if there are some things that you want to
5 discuss out of the eye of the public initially, you can do
6 that, but then you have to report back to the full committee in
7 a public session, you know, what ever is discussed in a
8 subcommittee setting. Now, as I note below, FACA, the Federal
9 Advisory Committee Act, doesn't tell us how we have to run
10 these meetings with the exceptions that I have mentioned above.
11 Our charter again, recommends that to provide a forum through
12 which members can collectively and jointly make
13 recommendations.

14 So what I would like to encourage again, so that we
15 are ensuring that we are getting advice, is that if we can w
16 towards consensus rather than a voting procedure, and if
17 consensus isn't achieved, just to make sure that there is
18 sufficient discussion, that we do understand where all the
19 groups are coming from, and, you know, the information that you
20 want us to hear, and that any major points that you especially
21 want to make sure get to me.

22 I'll be hearing them, but, you know, so that we
23 remember them and that we forward on to our management or the
24 Secretary, it would be good to have those summarized in
25 writing, you know, while we are here. I know that is

1 especially true if, for example, we are going to change any
2 mitigation measures, to make sure that we have the language
3 dealt with right here at the table, or if there are other
4 recommendations that you want to make.

5 One another note, on alternates, you see that we do
6 have two alternates here today. We do encourage you to be here
7 personally, if you are not able to make it, we do ask that and
8 alternate be representative of the group that the original
9 member was representing. If a member resigns, we do have to go
10 through the procedure of reappointing through the Secretary of
11 the Interior.

12 So let me stop talking for a minute and maybe ask
13 you, with regard to the running of the meeting, again, as to
14 how you would like to approach this, especially with regard to
15 would you want to elect a chair, or chairs, or how would you
16 want to approach this? What approach do you think would work
17 best for this group?

18 MR. FENTON REXFORD: I would like to have a chair and
19 co-chair to help expedite the meeting and get things going.
20 That's all I would say. I think a committee should have a
21 chairman. Those are my thoughts.

22 MR. NAPAGEAK: However, as long as the co-chair is
23 not a federal agent, are they bound by not voting.

24 MR. GOLL: You mean if it is a federal person?

25 MR. NAPAGEAK: Yes.

1 MR. GOLL: They cannot vote.

2 MR. NAPAGEAK: I mean the co-chair.

3 MR. GOLL: The co-chair. I think they can vote, the
4 chair and the co-chair.

5 MR. NAPAGEAK: I would like to have a clarification
6 on that.

7 MR. GOLL: Okay. So the question is, if we have a
8 chair and a co-chair?

9 MR. NAPAGEAK: Yes.

10 MR. EAGLETON: And the co-chair is a federal
11 representative, can that person then vote? Is that the
12 question?

13 MR. GOLL: If that was the question, then no, they
14 could not. But I believe they could help to chair the meeting.
15 yes.

16 MR. GRAY: But if the co-chair were not a federal
17 person they could vote?

18 MR. GOLL: If the co-chair were not a federal person,
19 they could still vote. Yes.

20 MR. GRAY: John, I'm just speaking for myself. I'm
21 comfortable if you would chair the meeting and if someone from
22 the North Slope Borough might want to be a co-chair. If that
23 were the pleasure of the committee, I think that might work.
24 But I would like to hear from other folks to.

25 MR. BURTON REXFORD: I concur with Glenn in chairing

1 the meeting.

2 MR. GRAY: I would support that also.

3 MR. GOLL: Well, let me first say something before
4 going into that. If I were to chair, though, I think what I
5 would really need is somebody to work with me. Because, again
6 I don't want an appearance that me chairing it, that I'm going
7 to be directing things a certain way. Hopefully, that is not
8 what I would do, but I just want to make sure that it's very
9 clear that there is someone else that I can work with, if there
10 is some follow-up after the meeting of information that we
11 might need, you know, from people or putting together summaries
12 or whatever.

13 So I would look for someone to help me with regard to
14 that. If there is someone you want to nominate or volunteer.

15 MR. GRAY: Is someone from the North Slope Borough
16 interested? I think that might be appropriate, just for the
17 fact that you folks live up in this area?

18 MR. BURTON REXFORD: I'll volunteer to co-chair.

19 MR. GOLL: Views from the table?

20 MR. EAGLETON: That sounds fine to me.

21 MR. GOLL: So we would keep in good touch.

22 MR. BURTON REXFORD: Good.

23 MR. GOLL: I can continue to chair the meeting, you
24 know, and if anybody thinks I'm going in a wrong direction with
25 regards to controlling things too much, please let me know,

1 because that would not be my intent. With regards towards
2 trying to work to consensus instead of voting, is there vie
3 from the committee on that?

4 MR. GRAY: John, I think that is always a good goal,
5 to work towards consensus. If we really can't get to a
6 consensus, I would like what we have down here on the paper for
7 protocol, that we would certainly highlight the views of people
8 that weren't part of the consensus or part of the majority, I
9 suppose, at that point. I think it is very important to have
10 the minority views, but certainly, I think we should try and
11 work towards consensus. And during the stakeholders' task
12 force for the last five-year plan, I think we were fairly
13 successful to get something close to consensus.

14 MR. EAGLETON: If it were a vote, would it be 100
15 percent?

16 MR. FOLEY: Or two-thirds rule, or 51 percent. I
17 think it sort of depends on, in my opinion, what the true
18 purpose of the committee is. If the recommendations of this
19 committee are to be adopted totally by MMS and their decision
20 to have the sale and how the sale would proceed, it would be my
21 desire to require a consensus or unanimous approval of
22 everyone.

23 The things that don't obtain a 100-percent unanimous
24 approval would merely be, in my opinion, you know, placed with
25 the MMS as advisory comments, and then the MMS could chose to

1 adopt those in the sale or not. But I think that everything
2 that is unanimously approved, I would expect to see in the
3 final sale document.

4 MR. ZSELECZKY: John, that's a good point. Maybe we
5 should clarify exactly how much credence will be given to the
6 recommendations of the committee. In other words, for example,
7 if the committee had a consensus to pursue Alternative 2, is
8 that mandated, or is that just advisory to the MMS?

9 MR. GOLL: Again, it is an advisory committee, but
10 let's say this committee came up with a real strong
11 recommendation to say to us to do this. I guess I could almost
12 say it would be very hard for us not to accept that. You know,
13 that is what I would say.

14 MR. FENTON REXFORD: As far as this advisory
15 committee, is there another committee alongside of it or next
16 to it, or above it or below it?

17 MR. GOLL: No.

18 MR. FENTON REXFORD: In other committees, there is
19 such things as boards.

20 MR. GOLL: No. This committee has a direct line.
21 One, when this idea was first being thrown around, there was a
22 question as to whether it should be a subcommittee of the OCS
23 Policy Committee, which would mean that this committee would
24 report to the Policy Committee. That's what occurred during
25 the stakeholders; task force for the five-year plan.

1 But this group reports directly. It does not go
2 through the Policy Committee. It does not go through any o
3 committee. It is a separate group. So your advice does not
4 get filtered by any other committee. What you say goes
5 forward. So in one sense, you're on equal power with the
6 Policy Committee and the Scientific Committee, and we also have
7 a Royalty Management Committee within MMS.

8 MR. FENTON REXFORD: Is that in here somewhere?

9 MR. NAPAGEAK: What is the main issue that we are
10 discussing at this time?

11 MR. GOLL: The approach.

12 MR. NAPAGEAK: The voting?

13 MR. GOLL: Yes.

14 MR. NAPAGEAK: The voting authority of the co-chair?

15 MR. GOLL: No. Of the group. Of whether the
16 group -- would you want to vote on every issue, or again, just
17 make sure to see if there is a consensus on issues for
18 forwarding recommendations?

19 MR. NAPAGEAK: Okay. Should we decide to vote on
20 issues?

21 MR. GOLL: Are you saying can the co-chair also vote?

22 MR. NAPAGEAK: Yes.

23 MR. GOLL: The answer is yes. Under the discussion
24 approach and the consensus approach, everyone at the table
25 except for me can give their opinion and give a nod yes or no.

1 If we went to a real vote, you know, up and down on a motion,
2 then the federal representatives would not be able to vote.
3 They can still participate and discuss and express their ideas
4 and thoughts. But if one went to a, 'We will take a vote,'
5 they would not be able to vote.

6 Just for information here, Terry Holman is from our
7 Headquarters Office and is sort of the expert on advisory
8 committees and so on. So if we have a question with regards to
9 that, I'll be looking at her for a yes or no, a nod of the
10 head.

11 MR. ZSELECZKY: John, if you're looking to the
12 recommendations of the committee for as clear advice as you can
13 get, I would suggest that you try to reach a consensus on
14 everything. If we can't, perhaps we should fall back to a vote
15 so, for the record, you would know how decided the group
16 actually was and how much dissent there actually was. I think
17 that will give you as clear of a picture as possible.

18 MR. NAPAGEAK: How was that again? Would you speak a
19 little louder please?

20 MR. ZSELECZKY: I'm sorry, Thomas. My suggestion was
21 that we should try to reach a consensus, if possible, on the
22 issues. If possible. But if we cannot, then take a vote as a
23 fall-back so that that can be recorded for the MMS, so when
24 they do make their decision, they will know, for instance,
25 whether something was very close to unanimous or was very

1 divided, that it will be very clear to them.

2 MR. FOLEY: Do you also suggest a roll call vote s
3 that we know who the supporters are?

4 MR. ZSELECZKY: I think that would be a good idea
5 because I think that would clarify the advice from each member.

6 MR. FOLEY: I agree with that.

7 MR. GOLL: Are there views from others?

8 MR. GRAY: That works for me.

9 MR. EAGLETON: My only question is, How, then, if
10 there is a issue that one of the federal representatives are
11 strongly for or against, how is that then put into the
12 comments? Would that be an advisory comment then? Is that
13 what you were talking about?

14 MR. FOLEY: Well, I guess it's my thought, there are
15 a lot of forums that operate, and one of them is this
16 committee. But at the same time, each of the federal agencies
17 has an opportunity to also comment.

18 MR. EAGLETON: Correct.

19 MR. FOLEY: Then MMS must have some balancing act to
20 weigh all the input.

21 MR. GOLL: You can participate through the
22 discussions, and I think, by that, we will know where you would
23 be coming from. It's just that if one goes to an up or down
24 vote by the Federal Advisory Committee Act, you cannot vote.

25 MR. EAGLETON: Sure.

1 MR. GOLL: But we would know your viewpoint.

2 MR. EAGLETON: But we would still have an avenue to
3 get our positions in?

4 MR. GOLL: Yes.

5 MR. EAGLETON: Okay.

6 MR. FENTON REXFORD: Just one question, then I will
7 get to another one. The members that are here, who's voting
8 and who's not? How many of us here around the table will be
9 voting?

10 MR. GOLL: Okay. The three people sitting at the
11 table who would not be voting would be myself, Pat Sousa, who
12 will be coming in a bit from Fish and Wildlife Service, and
13 Matt Eagleton from National Marine Fisheries Service.

14 MR. FENTON REXFORD: So there are how many of us?
15 Seven.

16 MR. GOLL: That's correct.

17 MR. FENTON REXFORD: I didn't get all of their names.
18 Is there a list of all of their names and addresses?

19 MR. GOLL: Yes, there is. In fact, I will come back
20 to that in a minute.

21 MR. FENTON REXFORD: Okay.

22 MR. GOLL: If we could, again, try to come to a
23 consensus or a vote on whether to vote or consensus.

24 MR. FENTON REXFORD: One other clarification on the
25 committee membership, in consultation with the Division of

1 Governmental Coordination. Is that the only avenue of making
2 nominations for this committee here?

3 MR. GOLL: That's within the charter. So we have to
4 follow what was in the charter of making recommendations. I
5 think the way it worked with this, we worked with the different
6 groups of the North Slope Borough and others to recommend, you
7 know, who the membership should be.

8 MR. FENTON REXFORD: And how often is this charter
9 changed?

10 MR. GOLL: Usually they're reviewed every two years,
11 and every member here is appointed for two years. So, again,
12 people's representatives can change at the end of that time
13 frame. What we hope is that for as long as this sale is being
14 proposed, this group will stay together for the continuity. We
15 would expect one more meeting of this group for this sale.

16 There is a proposal or suggestion on the table that
17 had some concurrence from some people that, again, if there is
18 a discussion going on, we can see if we do have a consensus,
19 and if there is, then we would essentially write that up as a
20 recommendation or summary of the discussion. But if we don't
21 reach a consensus then there was some discussion, that then a
22 vote be taken. Is that agreeable?

23 MR. BURTON REXFORD: When you mention write it up,
24 were you saying it's going to be written up in the EIS?

25 MR. GOLL: Well, written up from the recommendations

1 of this group. Which it would not necessarily be in the EIS,
2 but it would be part of the information that goes to MMS
3 headquarters and the Secretary when decisions are being made,
4 you know, on this sale. So again, it is a direct line; it's
5 not going to be filtered out by us within the EIS or anything
6 of that nature.

7 MR. BURTON REXFORD: Okay.

8 MR. GOLL: Do we have concurrence, or do we all agree
9 on that type of approach?

10 MR. NAPAGEAK: I agree.

11 MR. GOLL: Okay.

12 MR. FOLEY: Yes.

13 MR. GOLL: We will try this. And like I said, this
14 is the first time we've met, so we will see how we go on. If I
15 could pass this around really quickly, it's the list of
16 members. If you could make sure that what we have on the paper
17 is correct. And we did put a spot in for fax numbers and e-
18 mail, for those members who have e-mail. Then we will make a
19 copy of this and get a copy to you this morning.

20 Is there anything else we need to discuss with regard
21 to running of the meetings?

22 (No audible response)

23 MR. GOLL: Because if not we can then start into some
24 of our brief presentations and then get into some of the
25 discussions.

1 What we hope to do over the next hour, and maybe we
2 will need to take a break sometime in between, is to give an
3 overview first of where we are right now with regard to the
4 sale process for Sale 170 and some of the next steps we will be
5 going through. Part of what we will be asking you later is
6 when is a good time for our next meeting. Let me just preface
7 this a little bit. Right now, we will be going through what
8 the mitigation and alternatives might be for the sale. But
9 after that, Tom Warren will be going into where we are going.

10 There are a couple of steps where it would be good to
11 get your advice and the timing of that step as to where we are
12 going with regard to a decision. This fall we will be making
13 some preliminary decisions on what we think the sale will look
14 like. That may be one time for us to get together, before that
15 happens, or after things have been reviewed by the Governor's
16 Office. And when we're putting together final decisions on the
17 sale, that might be another time. So again, not for discussion
18 now, but as the meeting goes on, you know, we will be asking
19 that question, when will the best time to meet be?

20 MR. WARREN: I'm the Leasing Chief for the region
21 here, and what I will do is describe the process that we go
22 through, the public and deliberative information process that
23 we go through to determine a decision ultimately on what to do
24 with any particular sale. My reference, of course, will be
25 Sale 170. The first step in our process is to consider a

1 planning area in Alaska and whether or not all or part of that
2 area should be put on our five-year schedule or into our five-
3 year program.

4 That decision regarding Sale 170 was made some time
5 ago. Sale 170 was approved in our five-year program. It was
6 designed to be a small, focused near-shore sale in the Beaufort
7 Sea. The playing area is, of course, much larger, and this is
8 designed to be a relatively small-focus sale, as I've said.

9 The first step in the information-gathering process
10 for the sale was the issuance of what we call a call for
11 information and comments. The purpose of this is to ask the
12 public and petroleum industry, in the case of the public, for
13 any concerns or information they have about the area being
14 considered for leasing and any leasing concerns and information
15 they may have about any aspect of leasing in that area. The
16 question to the petroleum industry is what area, what blocks
17 within that particular area do you want the MMS to consider for
18 leasing?

19 That call was issued the end of September last year.
20 The public and industry were allowed 30 days to comment on that
21 notice. The summary of the results of all these steps is in
22 your EIS on page 1-1 and 1-2 if you would like to know how many
23 comments were received, when it occurred, et cetera. The
24 decision was made to go ahead and further study the area by an
25 EIS for purposes of considering leases in this area. We

1 announced in November that we would prepare an EIS for this
2 area.

3 The next major step was the area of study for that
4 EIS. That's called an area of identification. That set the
5 boundaries that you see on the map on the wall there for the
6 area of study for the EIS. That announcement was made in
7 February of this year.

8 Our next major step, of course, is production of the
9 EIS itself. The first product was the draft EIS. Its purpose
10 is to gather environmental, socioeconomics, and other resource
11 information and analyze the existing environment, what may
12 occur in the future, and put it all together in an assessment
13 of the possible effects of the leasing in that particular area.
14 The draft EIS was issued in May of this year. The comments on
15 that draft EIS were due last week, the 31st of July.

16 The comments received on the draft EIS are analyzed,
17 and ultimately a decision is then made regarding the content
18 and structure of the final EIS. Of course, you will be a part
19 of that deliberate process. A final EIS in this case then
20 would be issued in October of this year. At about the same
21 time, we issue -- if the decision is made to proceed, we issue
22 what is called a proposed notice of sale. This document is the
23 Secretary's draft decision regarding the size, timing, and
24 location in terms of a sale. It is produced for the purpose of
25 notifying the Governor of this tentative decision. The

1 Governor has the opportunity to comment on that draft decision
2 and responds back to the Secretary with his comments.

3 At the same time, a second document is prepared, and
4 it is called a consistency determination. This document sets
5 out our view of whether or not the preliminary sale decision
6 conforms with state and local coastal consistency plans. It
7 goes into some detail as to how it conforms with the state and
8 regional local consistency plans. This is also for the State's
9 comment. Generally, these comment periods are 60 days, and so
10 the comments from the Governor and other entities within the
11 State come back to us at about the same time.

12 The Secretary is required to ultimately respond in
13 writing back to the Governor regarding comments on this draft
14 decision regarding the sale. In the case of Sale 170, the
15 State's comments on the documents will be due back in February
16 of next year. The Secretary and MMS are also obligated under
17 the Coastal Zone Management Act to work with the State of
18 Alaska in attempting to reach some common mind as to the draft
19 sale decision and its effects regarding the Coastal Zone
20 Management Plan.

21 If, following those deliberations, a decision is made
22 to actually conduct the sale, a final notice of sale would be
23 issued in March of next year, and the sale could occur 30 days
24 later, in April of next year. The sale area could not be
25 expanded in any case beyond what was initially identified as

1 the area considered for leasing, which is the area on the map.

2 MR. GOLL: One question, I guess. One thing we w
3 have to decide during our meeting is when our next meeting
4 should be. The two opportunities are when?

5 MR. WARREN: The first one would be at the point in
6 time when we're preparing the final EIS. In fact, a completed
7 draft of that document would be available for your review.

8 MR. GOLL: Are we talking about October or November?

9 MR. WARREN: We are talking November.

10 MR. GOLL: And then the other alternative would be
11 when?

12 MR. WARREN: Late February, early March, prior to
13 responding to the Governor on a draft sale decision.

14 MR. GOLL: So, again, that is something that I would
15 want the group to come back to, maybe towards the end of the
16 meeting, when we see where we are on different issues, whether
17 this would be the best time to get together or at a later time,
18 depending on the advice the committee wants to forward.

19 MR. WARREN: I'm sorry. I may have misspoken, I
20 don't recall. The first opportunity is prior to making that
21 draft decision on the sale. So that would probably in
22 October -- I think I said November.

23 MR. GOLL: Are there any questions?

24 MR. GRAY: I know back before you changed the
25 process, there was some sort of schematic you folks had. Have

1 you developed any new schematics to reflect the new process?

2 MR. WARREN: We don't have the real sophisticated
3 wiring diagram any more. It's our standard sale milestone
4 chart, which I will get you.

5 MR. GRAY: Great.

6 MR. SOUSA: Pat Sousa with the U.S. Fish and Wildlife
7 Service.

8 MR. GOLL: Planes are a little late?

9 MR. SOUSA: Yes.

10 MR. GOLL: Any other questions for Tom?

11 MR. BURTON REXFORD: There is a deferral. Is it
12 going to stay the way it is?

13 MR. GOLL: What?

14 MR. BURTON REXFORD: Kaktovik deferral?

15 MR. GOLL: That's part of what we will be discussing
16 here.

17 Next we had Larry Cooke, who was going to give an
18 overview of what we at MMS are expecting from the sale. Then
19 maybe after that we could take a break.

20 MR. BURTON REXFORD: Great. I got up at 5:30 this
21 morning, now it's time for a nap again.

22 MR. GOLL: No naps, we can't do that.

23 MR. COOKE: My name is Larry Cooke, and I'm the
24 Section Chief for the group that estimates the undiscovered oil
25 resources and also comes up with the economical values for the

1 resources. I'm going to be going over a brief overview of the
2 oil and gas activities right now as they relate to the feder
3 offshore. And then I'll be talking about what we think at MMS
4 might happen from a sale in the 170 area.

5 Just to get us located, an orientation map of the
6 North Slope, over on the west-hand side, we have the National
7 Petroleum Reserve Alaska. This area is part of NPRA that is
8 being looked at right now for possible sale. Arctic National
9 Wildlife Refuge to the east. The Prudhoe Bay development area
10 in the center and the State lands, and the Trans-Alaska
11 pipeline heading south. This is the same area, but looking at
12 some of the discoveries that have been found on the North
13 Slope. Again NPRA over here, ANWR over there. Most of the
14 development right in the State area.

15 And just a reminder, MMS is just responsible for the
16 area that is outside the three-mile limit, north of the three-
17 mile line. One of things I would like to point out is it seems
18 like a lot of the discovery so far follows a trend. There is a
19 subsurface arch, called the Barrow Arch. Basically, you have
20 your reservoir rocks that have been trapped by the arch, and
21 those are where a lot of the large fields have been discovered,
22 such as Prudhoe Bay.

23 Most of those are south of the arch. As you get
24 north of that into the federal waters, it's a different
25 geological regime than what we generally see. It's younger

1 rocks. The discoveries are harder to find, and they have, so
2 far, tended to be smaller in size. I'm not going to go over
3 all of these fields, but just the ones that are fairly
4 important for the federal offshore right now.

5 The first would be North Star, which would be the one
6 most likely to have some development in the near term. It is
7 currently tied up in litigation. It's a joint federal and
8 State tract, five State tracts and two federal tracts. It has
9 had six wells; it's a fairly small field on the order of 130 to
10 140 million barrels. It was discovered in 1984, so we have
11 known about it for a long time. It has been sub-economic; it
12 is just now getting to the point where they are talking about
13 development.

14 Another field that was leased in our last lease sale,
15 Sale 144, is the Liberty. This was bought by BP; it had three
16 exploration wells formerly; they have since drilled a
17 confirmation well, and it is another one that could possibly be
18 developed in the near term. Again, in the smaller size,
19 roughly a 120 million barrels, also discovered in 1982. So
20 both of these fields are nearing development. We have known
21 about them for a long time; it's just that now that development
22 is starting to creep into the federal offshore areas, the lease
23 fields are starting to look economic.

24 Sandpiper is another federal unit, fairly small in
25 size, it's a gas condensate field. Moving farther away, we

1 have the Hammerhead unit and the Kuvlum unit. Again,
2 Hammerhead was discovered, I believe, in 1985. Both of tho
3 are considered sub-economic right now. And the last one that I
4 wanted to point out is the Warthog prospect, which is yet to be
5 drilled. It is primarily in State waters; there are nine State
6 leases and two federal leases. ARCO has filed an exploration
7 plan to drill that prospect.

8 MR. BURTON REXFORD: What year was Kuvlum?

9 MR. COOKE: What year was Kuvlum?

10 MR. BURTON REXFORD: Yes.

11 MR. COOKE: Kuvlum was the most recent one; it was
12 drilled in 1992. It has had three wells. The first well
13 looked really good; they were predicting a billion-barrel
14 field, which is roughly what you would need to be economic in
15 that location. They drilled two more initiation wells, whic.
16 were not as encouraging. The resources were smaller; it is
17 still a big field, but it's just expensive to develop. So some
18 time in the future possibly, but not right away.

19 Next I would like to look at the leasing patterns
20 from our last lease sale, Sale 144. This map shows our leased
21 tracts, and that's kind of hard to see. The blue blocks are
22 former active leases; they are still active from previous
23 sales. The red blocks are the leases from Sale 144. What I'm
24 trying to show here is that most of the leasing is right along
25 the federal and state boundaries. As you can expect, they're

1 concerned with getting the resources to the existing
2 infrastructures. A couple of existing discoveries they're
3 still holding the leases on, but nothing has been done yet.

4 This one was a little bit different. It's more of a
5 structural prospect, and it's a long way from infrastructure,
6 so it probably would not be explored any time soon. They have
7 10-year leases, so they have plenty of time for that. I would
8 just point out, too, that this is the 144 boundary; this is the
9 Sale 170 proposed area. We have had six sales in the federal
10 offshore, and there has been a shift in emphasis over time.

11 The initial sales, they were looking at large
12 features, Prudhoe Bay type accumulations. They have stepped
13 back from that now; they are looking at much smaller things,
14 close to existing infrastructures that could be developed in
15 the near term. We have had 29 wells drilled in the offshore,
16 so a lot of the large structural features have been drilled.
17 They are looking now for much more subtle, smaller features.

18 I'm not going to go into all of our resource
19 estimates and infrastructures and so forth. A lot of that is
20 found in the 170 draft, in Appendix A. But I did want to
21 mention that we had a process that we used to develop those
22 resources; it's been developed over a period of 20 years. We
23 have had National Academy of Science Reviews. It is a process
24 that allows us to use all of the geological information that we
25 have.

1 We access the geological resources, then we apply an
2 economics model where we estimate the production schedules &
3 the infrastructure that we might need, the number of platforms,
4 wells, what they would cost, end up with a discounted cash flow
5 for all of these different prospects, and that is what we use
6 to come up with our economic number that's used for the
7 analysis in the EIS. So it's a very long process. It's what
8 keeps us busy, the kind of stuff we work on, but that's all
9 described in the report. I'm going to pretty much get down to
10 the bottom line and summarize what's on the report.

11 Basically, it's a much smaller sale than what we
12 offered in Sale 144, about one-fifth of the size. 144 we
13 considered a bigger sale, and it hadn't been offered for five
14 years, so we thought that was going to be a bigger sale. A 1
15 of that area has been explored previously; larger prospects
16 have been drilled. What we saw 170 being was a smaller
17 reoffering sale; it was following fast on the heels of Sale
18 144.

19 What we anticipated was that if a company wanted to
20 go out and get additional seismic information, or if they
21 drilled a well and came up with a new geological concept, it
22 gave them an opportunity to go out and pick up a few more
23 tracts. What our resource estimates show in the EIS is that
24 there are smaller numbers. We estimated that there is
25 somewhere between 350 and 670 million barrels resulting from

1 the sale. A very small number of fields. As a result of that,
2 and more of a focused look, we saw that there would be smaller
3 features that would get explored for, probably fewer platforms,
4 again, with this more focused development idea.

5 So the bottom line is fewer potential activities than
6 we analyzed for Sale 144. Final question is, Well, if it's
7 that small, why even offer it? I guess the response to that is
8 the words that we live by in our the OCS Lands Act; that kind
9 of controls our way of doing business. And one of the things
10 that it states in there is that we have an orderly development
11 program, a measured pace. That Act was rewritten after the
12 last oil embargo. The idea was that you didn't want rapid
13 development in an area; you wanted to try and keep it measured
14 and occurring over a long length of time. So that's sort of
15 the idea of this sale. It's offered; it's a small sale,
16 smaller than our 144 sale.

17 That's all I had. We covered a lot of stuff, so if
18 you have any questions, I'll be glad to answer them.

19 MR. FENTON REXFORD: That second one there, the area
20 explored.

21 MR. COOKE: What I was getting at there was the sort
22 of change of idea and what the exploration target was. Back in
23 the earlier sales, there were large undrilled features, and
24 that was kind of the exploration target at the time. We wanted
25 to go out and test those to see if they had hydrocarbon. The

1 Prudhoe Bay elephant type structures.

2 Well, we have drilled a lot of wells there now, s
3 it's almost like we're going through a second phase of
4 exploration now. It's a different emphasis, where they're
5 starting to look at more subtle features, again, focusing in on
6 closer to shore and things that are going to be more likely
7 economic. The basic problem is that when you get that far off,
8 you need a really large accumulation to be economic.

9 MR. COUGHLIN: You said there were 29 wells drilled.
10 Of those 29, how many were drilled in the Sale 170 area? Were
11 those 29 in the whole Beaufort Sea?

12 MR. COOKE: Right. That's for everything. I don't
13 have a map with me that shows all the well locations, but
14 again, in years past, it was more extensive. It was more
15 inventorying the resources to see what was there. We did hav
16 wells that were outside the area. I don't have a number that
17 would be close, just an estimate, I would say, on the order of
18 75 percent. And that's just a guess.

19 MR. COUGHLIN: You said there had been six sales
20 conducted. How many times has the area within Sale 170 been
21 offered for leasing?

22 MR. COOKE: I believe in all of those sales. The
23 first couple of sales were tract selection sales or tract
24 nomination sales, and then the last couple of sales were
25 areawide pretty much.

1 MR. WARREN: The sale in the Beaufort has been
2 offered each time.

3 MR. COUGHLIN: Other than the Tern and Liberty
4 prospect and the Warthog prospect, have any lessees within this
5 area submitted any current plans to drill in this area?

6 MR. COOKE: I haven't seen anything on Kuvlum, but my
7 guess would be that they would wait until they saw what
8 development occurred on shore. They would probably want to be
9 hooking up to the Badami site when that started production, or
10 if they could get something going with Hammerhead. Again,
11 that's speculation that's down the line. Nobody has come in
12 with an actual proposal to do that. It's something that's
13 being discussed and talked about, but nothing beyond that.

14 MR. NAPAGEAK: How many sales did you say in that
15 area have gone through?

16 MR. COOKE: Six.

17 MR. NAPAGEAK: Six.

18 MR. COOKE: Right. Starting since the late
19 '70s.

20 MR. NAPAGEAK: What took so long for the federal
21 government to finally realize that there were some Native
22 people living up there and to start considering what areas are
23 specific? I mean, after six lease sales.

24 MR. GOLL: Part of that was the program has changed.

25 MR. NAPAGEAK: I mean, I have testified time and time

1 again about doing the resales. Why did it take the federal
2 government so long to realize that there are people living
3 there? Just taking a look at the development, I notice that
4 Nuiqsut isn't on there. Where the hell is it? That's a nice
5 map, but evidently, there's a village there that needs to be
6 recognized. And it's not showing on there.

7 MR. COOKE: Right. This map is just designed to show
8 the existing discoveries.

9 MR. NAPAGEAK: Would you be able to point to me where
10 Nuiqsut is?

11 MR. COOKE: Is it down here?

12 MR. NAPAGEAK: No.

13 MR. COOKE: Well, I'm not sure.

14 MR. NAPAGEAK: That's just a basic fact of these
15 lease sales, not knowing where there are people that are try-
16 to survive.

17 MR. COOKE: I hear what you're saying.

18 MR. NAPAGEAK: I'm very glad that the federal
19 government is finally realizing to take some words or
20 comments -- well, no more comments -- basic words of the people
21 that reside there.

22 MR. COOKE: I hear what you're saying. What I'm
23 looking at is one specific area. That's our job, estimating
24 the undiscovered resources. That's one part of MMS. It's one
25 piece of information that is used. There's a lot of other

1 information that's used as well. And you are right. Things
2 were different back then, and there's nothing I can do about
3 that.

4 MR. GOLL: One of the purposes of this group is to
5 bring you to the table and to say the things that you are
6 saying, so that hopefully we will hear that, again, to help
7 decide where we are going in this area, if there is various
8 mitigation and other things that can be done, to address your
9 concerns.

10 MR. NAPAGEAK: I came prepared, but reliving the past
11 is not what I came for. By the way, can I make a motion to
12 have a break?

13 MR. GOLL: Okay. If there are no other questions,
14 then let's take a break. If we could be back close to 10:30.
15 (Off record at 10:22 a.m.)

16 (On record at 10:40 a.m.)

17 MR. GOLL: We are going to try and get a map to show
18 where wells were drilled in the 170 area, maybe if we can, to
19 show where all 29 wells were drilled, later this morning or
20 this afternoon. And second of all, just for identification,
21 Jim Kurth, the Refuge Manager for the ANWR, is also with us.
22 Pat, do you want to introduce yourself, since we all did? Just
23 so that it's on the record.

24 MR. SOUSA: Okay. Pat Sousa. I'm the Field
25 Supervisor of the Ecological Services Office for the Fish and

1 Wildlife Service. I'm stationed out of Fairbanks.

2 MR. GOLL: Thank you. Next, and this is probably
3 laying the foundation for the rest of our meeting, Ray Emerson
4 will be giving an overview of the issues that we have addressed
5 with regards to Sale 170, what the proposal was, what the
6 alternatives were, and an overview of the mitigation, and also
7 a quick overview of the summary of the comments that we have
8 received on the draft EIS. So again, this will be sort of
9 laying the foundation, I think, for the rest of our discussion
10 for the meeting.

11 MR. COUGHLIN: Can I ask a question?

12 MR. GOLL: Yes.

13 MR. COUGHLIN: Are the comments all in the second
14 binder?

15 MR. GOLL: Yes, they are. You've got all of the
16 original comments, so if you want to know what anybody said,
17 they are all in that second volume. Ray will also give a quick
18 thumbnail overview, you know, of what the themes were that we
19 were getting with regards to the comments.

20 MR. EMERSON: John said "quick" to me several times
21 yesterday and "quick" already today. It started out at a half-
22 hour, then fifteen minutes, and then I was told yesterday the
23 shorter the better. So I'm looking for an award here, so
24 basically, are there any questions?

25 MR. GOLL: But not that quick.

1 MR. EMERSON: But not that quick. In terms of quick,
2 and the concept of quick, we were under pressure to develop an
3 EIS that was somewhat streamlined, smaller and easier to read
4 and understand, than the last version, which was 144. So in
5 that effort, comparing the same documents, this is the 144
6 draft EIS, which did cover a bigger area. And in our efforts
7 to streamline, we got down to this size.

8 This was an effort to condense the information a
9 little more and to make it a little more readable, to get rid
10 of some of the stuff. We were actually under charge from
11 Headquarters to do that. We're not sure that the streamlining
12 concept is totally appropriate because we're getting some
13 comments saying put the stuff back in that was in 144, and we
14 are doing that. Actually, the people that were putting a lot
15 of pressure on us to streamline were also being reprimanded
16 somewhat in that they were transferred to the field.

17 (Laughter)

18 MR. EMERSON: In an attempt to get a comparison of
19 the area where we worked with in 144, in red, the larger area,
20 and then we thought we had a reference document based on 144,
21 the size of that and so on, down to get the scale of a more
22 focused area this time on Sale 170. So there was a lot of
23 incorporation by reference of that information. Probably two
24 key areas that we're going to reemphasize and bring most of
25 that information forward is that we're getting comments and so

1 on, on the issues surrounding the bowhead whale harvest and the
2 cultural effects, potentially, from these active leases on
3 villages, especially Nuiqsut.

4 So a lot of that information, traditional knowledge
5 and that sort of information is probably coming back into the
6 document. Looking at 170 itself, let me just state briefly
7 here, what we did have in 144, we did have a deferral option
8 that went all the way across to the Canadian border. And that
9 decision was to delete that from the final analysis and the
10 final sale. So that much of offshore real estate dropped out
11 of the process.

12 When we're down to 170, we're looking at some
13 interesting information there. You can see that the Kaktovik
14 deferral has moved farther, where we stopped on 144 has now
15 moved over towards the Canning River, but not that far. And
16 one of the comments it states that it should be extended
17 farther over. The original basis for the deferral in 144 was
18 primary bowhead feeding area, and that needs to be re-examined,
19 so we have initiated a major study in that area to look at that
20 potential activity.

21 Primarily, the extension of this particular deferral
22 is probably being driven more on concepts of protecting ANWR
23 than other things. It's thought that any offshore activity
24 associated with ANWR would be a way of eventually approaching
25 that particular area, indeed if that were the underlying plan,

1 and I don't think that it is. So another option that was
2 considered, that we didn't follow through on, was the area in
3 green here. That was a deferral option that was considered in
4 144, and that was the Nuiqsut deferral.

5 It was realized that the extent of that particular
6 area, if that were accepted, it probably would be the same as a
7 no-sale option. And so there were further negotiations with
8 some of the important leaders of the communities at that time
9 who realized that we were going to be considering that anyway
10 in the no-sale option, which is part of our analysis always,
11 that's one of our alternatives, would be to look at some other
12 ways of possibly looking a what if there were a sale and what
13 would we want to look at?

14 So the inference became more of mitigation, working
15 with the communities and seeing if indeed a monitoring program
16 would be effective in determining the effects associated
17 primarily with the disturbance of whales and whaling from the
18 Cross Island area, the area in the circle here, and out from
19 that point. Some other deferrals that are being considered is
20 a 50-mile arch each side of Cross Island. Cross Island being
21 here, the 50-mile arch went from the edge of the red here to
22 almost the Colville River, on over to about the Canning River;
23 that was the sweep. That is one of the alternatives that was
24 considered in this document, but was not carried forward. It
25 was thought to be similar to a no-sale option.

1 One new alternative that has emerged from the North
2 Slope Borough that we will be looking at is the area in purp
3 I guess that is, a 10-mile radius around Cross Island. That
4 would be an initial step of consideration as a possible
5 deferral option. That's not necessarily the right radius, but
6 we are close, it's about a 10-mile radius.

7 Concerning comments, what we have received so far,
8 mitigation was asked from the 144 to be brought forward from
9 that document, and basically, it said bring 144's mitigation
10 and examine that the same as in 170. What we have here on the
11 wall are the same stipulations. There was asked to be some
12 modifications in No. 5 where we would incorporate cumulative
13 effects. Right now, as it stood, we had intended that, but the
14 wording itself needed to incorporate cumulative, so we have
15 added it because that's really one of the biggest concerns
16 itself, is the overall increase in activity and its cumulative
17 effects of those many activities.

18 As you can see, there are a lot of activities from
19 the previous discussions. Also, those are the 21 ITLs that
20 were similar in Sale 144. The key aspects of those
21 stipulations are 4 and 5, which were negotiated with the folks
22 on the North Slope. As a way to approach looking at Nuiqsut in
23 that area where we have the monitoring program, it incorporates
24 the monitoring program, and it also incorporates peer review by
25 scientists and so on.

1 And I think you're going to be looking closely at
2 those stipulations during this workshop, or this gathering, to
3 see if indeed that terminology and the words are still
4 satisfactory. The real meat of the issue there is Nos. 4 and
5 5, I think, for some of this proposed activity.

6 MR. GRAY: Ray, could you clarify for me? Did you
7 add the term "cumulative effects" to Stipulation 5 or to ITL 5?

8 MR. EMERSON: Stipulation 5.

9 MR. GRAY: Stipulation 5. Thank you.

10 MR. EMERSON: And that wording change is shown in
11 your packet. There is a lot of information in that packet. I
12 should say, just quickly, the EIS, if you just want to refresh
13 your mind on what you're going to be talking about at these
14 meetings and so on, just try to look over these first 19 pages
15 because that's the guts of the information. We have it in
16 brief form in Chapter 1; that's 12 pages. And if you add
17 another 17 pages, you'll see the specific wording right here in
18 these first two chapters of the document.

19 It's all in there, the exact wording, the diagrams
20 I'm showing you here, and so on. From then on, it goes into
21 the analysis, Chapter 3 and 4, to bring you up to decision
22 points that we have been working on, our mitigation measures
23 and deferral options. So the meat of that is right here in the
24 first 19 pages -- 29 pages, excuse me, and the exact wording of
25 the stipulations is in Chapter 2. If you don't want to read

1 the exact wording, go to Chapter 1; we tried to give a short
2 paragraph description of what the intent was, and that's the
3 key points in Chapter 1. Also in Chapter 1, we point out our
4 scoping concerns.

5 In terms of scoping concerns and so on, I have this
6 in three categories here, and please don't confuse this as the
7 definitive list. This is just a brief overview of the topics
8 that we're considering. And when it comes to the specifics of
9 these issues, you have a folder there with all the comments
10 that we've received so far and what they're expecting us to
11 deal with. But in a general sense, though, a lot of the same
12 area in 144, a lot of the issues, have been ongoing not only
13 since 144 but ever since we've been up there in terms of
14 offshore oil and gas leasing. So these first nine are major
15 considerations that we've brought over from 144.

16 We started, though, in 144 incorporating traditional
17 knowledge. I'm not going to go through all of these, but the
18 traditional knowledge concept was new to us in terms of
19 particularly citing elders of the village. Before, we treated
20 traditional knowledge more as what we gleaned from scoping when
21 we would go up and ask what your concerns were and so on. That
22 was kind of an indirect version of traditional knowledge
23 because what we were told there was what we were supposed to be
24 identifying in terms of effects.

25 So now we're more formalized; I think it's much

1 better, and we are more complete. We are citing
2 representatives of the communities on certain statements.
3 There's a lot of information available though, so we're asking
4 that traditional knowledge be reviewed, too, as well as Western
5 science, to see if this is on track. The community may not
6 agree with the citations that we bring forward in terms of
7 traditional knowledge, but it's the idea that we're working
8 with, and we hope to improve upon that.

9 No. 2 is kind of what Stipulation 4 and 5 are about,
10 community and North Slope participation involved in that
11 process of that mitigation. Cumulative and long-term effects
12 are definitely one of the toughest things that we have to try
13 and determine in any EIS. Oil spill and prevention and cleanup
14 capability, especially in broken ice conditions, effects of oil
15 spills, discharges, and so. Water quality, we have a
16 possibility now where we can reinject now in deeper waters.
17 That's being proposed for the North Star facility. That would
18 be an obvious opportunity here to incorporate another
19 stipulation into this document.

20 New issues that we receive during the public hearing,
21 just briefly, the major concern is how is ANWR? Now that this
22 is a possibility of the next step being ANWR, since NPRA is
23 being developed to the west. But most of our comments that are
24 coming in to that extent act as a buffer. They want to move it
25 from the Canning River, a little further over to the Staines

1 River, which is a part of the Canning River drainage system.

2 More emphasis this time on more protection of car
3 calving areas. I think that's in regard to ANWR again because
4 we're talking primarily disturbance to the Porcupine herd, and
5 that's a sensitive aspect in regards to that's a shared
6 resource with Canada.

7 Cross Island 10-mile radius, as I showed you on the
8 overhead, and the intent is to try to lend some mitigation to
9 the Nuiqsut whaling effort in the fall, out of Nuiqsut. Since
10 Cross Island is the staging area, I'm sure that will be a topic
11 that you'll want to consider in more detail. Their impact
12 assistance came out loud and clear in Nuiqsut, that that was
13 one of the major themes, that if they were the community that
14 was going to be taking the hit, that they indeed should have
15 some type of remuneration at least coming their way because
16 is in their backyard.

17 Impacts of undersea pipelines and permafrost, we have
18 dealt with that somewhat, but we're going to have to deal with
19 that in much more detail this time. Concerns for seismic
20 activity, that's the same as somewhat ongoing issues, in that
21 seismic disturbance displaces the bowhead whale migration. So
22 it's more difficult to reach those mammals in the fall hunt.

23 And the Cisco fish migration in the over-winter areas
24 in the Colville River areas coming out of the Canadian area is
25 a very important over-wintering habitat.

1 That's what we heard from the public hearings. You
2 have all the transcripts there in your document. We have a few
3 comments still arriving, but right now the major new issues
4 would be that we're in kind of an ongoing treatment of how we
5 weigh the traditional knowledge and Western science, and we are
6 trying to balance that.

7 In other words, we are not trying to say that one's
8 right and one's wrong, but if they are in conflict, in this
9 case, the issue is how far away does a whale begin to react to
10 seismic disturbance and so on? Our studies have shown 7.5, and
11 that's not a good number now and is not agreed with at all, so
12 the whalers say it's more like 30 to 35. So within that 30 to
13 35 miles, so we are looking within that range. Our intent,
14 though, in the document -- and you can hold us to this -- is
15 not to prove one or the other.

16 We do not want to set up a situation where we're
17 saying traditional knowledge is correct over the science or
18 vice versa, or the science is correct over the traditional
19 knowledge. When there is a conflict, though, the important
20 thing is that we identify it properly and set up a situation --
21 in this case, we hope we're working towards that in this
22 monitoring program, when we see indeed there is activity, what
23 is happening out there.

24 We need more information on this, some real
25 information, let's say, when there is an activity occurring and

1 what does happen. We thought we had that somewhat narrowed
2 down in the studies that were put forward, but we need to lo
3 at that some more.

4 I'm almost done. Protect ANWR, I've already
5 mentioned that. Porcupine caribou herd, that's kind of a
6 repeat again. Expand the ITL on polar bears, including brown
7 bears. The last one here, old leases still being developed
8 prior to the next sale. In other words, here we are again and
9 there is still activity occurring in the area, but we don't
10 know the effects of that. There's quite a time line we're
11 looking at, and there are different stages of opportunity at
12 which things are occurring which we really need to watch and
13 see what indeed is happening so, as the development progresses,
14 we can evaluate it more precisely. I think that's probably mu
15 15 minutes. Anyone have any questions?

16 MR. GRAY: Ray, this is really a nice summary, is
17 this included in the notebooks?

18 MR. EMERSON: It's close but not quite this brief.

19 MR. GOLL: Could we get this made though, because I
20 was going to ask the same thing?

21 MR. EMERSON: Okay.

22 MR. GRAY: Yeah, because that's really helpful. I
23 like that.

24 MR. EMERSON: You have a little more detailed version
25 of that. About a three-page summary of the public hearings and

1 about a three-page summary of the comments we received. I'll
2 look into getting this copied.

3 MR. NAPAGEAK: What did you say again?

4 MR. GOLL: We're going to get copies for everybody of
5 this one overhead.

6 MR. GRAY: Oh, I see. There are summaries in the
7 book.

8 MR. GOLL: There are summaries in the book, but this
9 is a nice shorter summary. Are there any other questions or
10 comments?

11 MR. NAPAGEAK: Yeah. I do have a couple. Will you
12 put that last one back up for me? I know, Mr. Brock, that you
13 will understand what I'm saying, that the key issues would be,
14 realizing that we couldn't stop Lease Sale 170. The question
15 arose about impactment (sic).

16 MR. BROCK: Yes.

17 MR. NAPAGEAK: I would like to know how far that has
18 gone.

19 MR. GOLL: Impact assistance you mean?

20 MR. NAPAGEAK: Yes. From Lease Sale 170 to local
21 impacted communities. Because there was a question mark.

22 MR. BROCK: Do you want to answer that, John?

23 MR. GOLL: Yeah, I'll take a try. It hasn't
24 proceeded. We still cannot give impact assistance today. Now,
25 the OCS Policy Committee does have a group that is reviewing

1 that issue and is going to be making recommendations to the OCS
2 Policy Committee.

3 But we would intend -- normally what would happen is
4 that that would then be forwarded, likely, to Congress or, you
5 know, to the department. And again, it would take an act of
6 Congress. Congress would have to change the law for us to be
7 able to give impact assistance to the villages, or to the State
8 even, for the kind of impact assistance that was being
9 discussed for the Nuiqsut area.

10 Now, there is money that goes to the State when we
11 have a sale, the first three miles right next to the State
12 border, 27 percent of the money we bring in goes to the State.
13 But the way that it works right now is that the State decides
14 where that money goes. Impact assistance, I think, is a little
15 bit different in that it is beyond that 27 percent for the
16 three miles. It would include anything offered within a sale
17 area, by some kind of a formula, according to how much
18 production.

19 I mean these are suggestions that people have,
20 depending on the production or the amount of leases or the
21 amount of coastline that could be affected, there would be some
22 kind of distribution of the money. I think what is being
23 discussed within that group, though, is where does the money
24 go? Does it go to the villages that are affected, or let's say
25 like in California, the counties that are affected, or does it

1 go to the State, or is it shared in some way? I think that's
2 part of what they are discussing.

3 MR. NAPAGEAK: But the recommendation could come from
4 this committee?

5 MR. GOLL: Yes. They are supposed to report to the
6 Policy Committee at the meeting that's coming up at the end of
7 October.

8 MR. NAPAGEAK: One more. On those --

9 MR. GOLL: If I could interrupt you for a second,
10 Thomas. If this group wants to make some statement about that,
11 that, again, is up to you, with regards to impact assistance.

12 MR. NAPAGEAK: On the new issues, I notice that there
13 is one. What is so special about ANWR? I mean, it is land;
14 the spill is containable. The Beaufort Sea is non-containable.
15 Why don't we work on ANWR instead? Why should we fall back on
16 one comment written by someone that I don't even know?

17 MR. GOLL: I'm sure we will be discussing the
18 deferral connected within the Arctic Refuge and so on. And
19 maybe we can get a discussion, you know, with regards to that
20 as we're talking through.

21 MR. EMERSON: On that ANWR issue, you have in your
22 folder a summary of the comments so far, and you will see at
23 least four pages are on the ANWR issue. Most of them are to
24 not develop ANWR, so if there are concepts otherwise, I don't
25 think we've heard that.

1 MR. GRAY: John, just on the comment about impact
2 assistance. There was a bill in the last Congress about im
3 assistance for OCS sales, but I don't believe there is one this
4 time. In other words, there was a bill that they didn't pass
5 last time, and there is nothing that I know of at this time.

6 MR. GOLL: Are there any other questions?

7 MR. FENTON REXFORD: What is the name of that policy?

8 MR. GOLL: The OCS Policy Committee. It's made up of
9 representatives of all the coastal states, and, for example,
10 Selby from Kodiak is a member.

11 MR. STANG: John and Thomas, the Department of the
12 Interior has attempted to formulate proposals for and encourage
13 the Congress to have impact assistance since 1980, and probably
14 even before that in earlier attempts, but so far, we have been
15 unsuccessful in getting Congress to pass any laws that would
16 provide impact assistance.

17 MR. GOLL: Are there any other comments or questions
18 as to what Ray presented?

19 MR. COUGHLIN: I have a question. You stated that
20 one of the bases for the extension of the Kaktovik deferral was
21 the protection of ANWR. I didn't see any discussion about that
22 in the draft EIS.

23 MR. EMERSON: That's why -- there isn't.

24 MR. GOLL: Those were the comments we were receiving.

25 MR. COUGHLIN: That was a new one.

1 MR. EMERSON: All of the ANWR comments are in your
2 notebook.

3 MR. FOLEY: You're saying the Kaktovik deferral
4 alternative is a new issue?

5 MR. EMERSON: No. The extension over to the Canning
6 River.

7 MR. GOLL: To the Canning River.

8 MR. EMERSON: The extension from the Canning River
9 over to the Staines River.

10 MR. FOLEY: Okay. Now I'm confused.

11 MR. EMERSON: When you move it over a little bit more
12 like that, then you're protecting more of ANWR.

13 MR. FOLEY: Understood. Now, the basis for the
14 Kaktovik deferral alternative in the draft EIS, what is that
15 basis?

16 MR. EMERSON: There's caribou. There's the
17 subsistence aspect. There's a concern of oil spills occurring
18 on the coastal area where the caribou come to the coast for
19 insect relief, and there would be a problem there. It's
20 subsistence driven, but I think it's also now taking on
21 somewhat that momentum of ANWR, and possibly somewhat with
22 relation to the Warthog.

23 MR. GOLL: I think the question was, what was our
24 rationale for including the Kaktovik deferral within the draft
25 EIS? Not the comments. Is that what I heard?

1 MR. COUGHLIN: That's correct. And that's my
2 question. I didn't see any discussion about this ANWR issue
3 the EIS.

4 MR. GOLL: Okay.

5 MR. COUGHLIN: So I didn't understand that to be a
6 basis for the Kaktovik deferral in the draft.

7 MR. EMERSON: Right. And it isn't.

8 MR. COUGHLIN: And so what I'm trying to determine is
9 was it entering into MMS's mind, or whoever is responsible for
10 the draft?

11 MR. EMERSON: No.

12 MR. BROCK: One of the reasonable reasons that this
13 new Kaktovik deferral was identified during the scoping process
14 was, again, the feeding of the bowhead whale was one of the
15 concerns. The area east of Kaktovik was a feeding study. When
16 we were in Kaktovik and Nuiqsut, there was a concern at that
17 time that that may also go to the west of Kaktovik. So that
18 was what was identified during scoping. And I think that was
19 one of the major reasons that the Kaktovik deferral was
20 identified in the draft EIS.

21 MR. EMERSON: Yes. It's subsistence concerns, is why
22 it's in there now.

23 MR. GOLL: But in the comments on the draft, we
24 received a number of comments with regard to overall -- or
25 addressed at ANWR as an issue. So that's part of what I think

1 we'll be discussing a little later when we start going through
2 the alternatives, as to whether they need to be modified or
3 others need to be included.

4 MR. COUGHLIN: I would like to ask a little bit more
5 about the rationale for excluding the Nuiqsut deferral request
6 in this draft EIS.

7 MR. EMERSON: The reason is that the areas that were
8 being identified were the same basically as a no-sale option.
9 So with that particular -- it would have been the same analysis
10 as we are already doing for a no-sale. So we could have done
11 that, but the community leaders decided that that was already
12 in the analysis. So what is it going to be like? What is the
13 analysis?

14 And I think that it's a more substantive analysis of,
15 What if activity occurs there, under a monitoring program and a
16 peer review process, to determine, let's say, we have some
17 effects here, but we're not totally in agreement on where those
18 effects begin and so on, or what that level of effect is. So
19 they decided to work with the program. I think it was a big
20 step in helping us gain information in this respect, to make
21 better decisions. So it's in there as a de facto option. It's
22 just that it would be the same as a no-sale analysis. And I
23 think that if you read in the EIS there, that that is part of
24 our rationale for that.

25 MR. GOLL: But again, in comments that we have

1 received, for example, the North Slope Borough afforded us this
2 comment about a deferral area around Cross Island. And I th
3 that's another thing that I think that we do want to understand
4 and discuss at this meeting.

5 MR. COUGHLIN: That raises another question in my
6 mind. I understand that you cannot lease more area than you,
7 in essence, are giving the public notice that you may lease.
8 But I take it that even though the 10-mile request is not one
9 of the alternatives that are identified in the draft, that you
10 could still do that. You could, in essence, create a deferral
11 that is not otherwise listed as an alternative.

12 MR. GOLL: To evaluate for the final EIS. Correct.
13 Yes, we can. That, again, is the purpose of this meeting, to
14 talk over should we, for example, include a Cross Island
15 deferral or should we not? You know, should we be doing tha
16 for the purpose of the analysis within the EIS, or is it a
17 correct one?

18 MR. EMERSON: And even its boundaries are a working
19 issue.

20 MR. GOLL: Any other questions or comments?

21 MR. ZSELECZKY: Could I summarize that in very simple
22 words? Are we saying then that out of this meeting, we could
23 not recommend that the sale area get any larger? That is not
24 allowed, but it is possible to recommend that it could be
25 smaller?

1 MR. GOLL: Or that we evaluate other deferrals.
2 Correct. We cannot make it larger because it was outlined this
3 way in the five-year plan, so we cannot go beyond the red
4 border. But what we can do is come up with other deferral
5 options to evaluate in the final EIS.

6 MR. BROCK: John, if I understood Pete's question
7 correctly, you are not looking for a recommendation of whether
8 or not you should make it smaller. What we are looking at, at
9 this point, is whether we should analyze some information to
10 make it smaller, in the final EIS.

11 MR. ZSELECZKY: My concern was that the EIS listed a
12 number of alternatives. For this committee to now propose a
13 new alternative, which the public hasn't had a right to comment
14 on, in sense, that's kind of unfair. You haven't had any
15 public comments about a formal Alternative 4, for instance, or
16 Alternative 5. So I guess my recommendation would be that the
17 MMS take that into consideration.

18 MR. GOLL: In one sense, that's the purpose of the
19 comment on the draft. If there are other issues that we did
20 not evaluate and then there's a decision that we have to make
21 as an agency, if we do add another deferral, then is it quite
22 different than what we were trying to do before? If it is,
23 then we might have to do another draft EIS. If it is, again,
24 in the realm of what we've already evaluated for other issues,
25 then one could just do the final.

1 Now, there is, as I say, a cooling off period after a
2 final is done. You know, a federal agency cannot make a
3 decision within 30 days after a final EIS. So in a sense, one
4 can get other comments from the public if there's something
5 different that appears in the final EIS that was not there
6 within the draft. And likewise, this group will have another
7 opportunity after the final EIS is done in-house to give
8 recommendations on what it thinks, you know, with the direction
9 we should be going with regard to the sale decision.

10 Any other comments or questions for Ray? Or again,
11 questions of what we did in the EIS or proposal, or any of the
12 comments that we are receiving from the public?

13 MR. FOLEY: John, I have a specific question on the
14 EIS. I don't know if it's appropriate to bring it up at this
15 time. It has to do with the oil spill information in the
16 statistical analysis that's taking place there. Did you plan
17 to cover that at any time?

18 MR. GOLL: We can. Again, if it's germane to the
19 discussion that we're having, sure. It's one of the issues up
20 there as an example. Do you want to do that now or later?

21 MR. FOLEY: Well, let me make a comment and we can
22 decide whether we want to pursue it now or defer it.

23 MR. GOLL: Okay.

24 MR. FOLEY: When I had read the draft EIS, there was
25 a section on oil spills and the statistical analysis that

1 basically says, 'The odds of a significant oil spill of greater
2 than 1,000 barrels,' and I don't remember the exact percent,
3 but it's basically a little bit better than a 50/50 chance, you
4 know, pretty definitive, that, 'Yeah, there is going to be a
5 1,000-barrel oil spill.' And my question is what went into
6 that analysis? Because I was shocked when I had read that.

7 MR. GOLL: I can answer at least that part of it.
8 The analysis is based on the experience of OCS-wide, which a
9 lot of it includes the Gulf of Mexico. There has been no
10 production up here, so it's not included in that. But it
11 includes all the information that we have with regards to
12 spills in the Gulf of Mexico and the Pacific region.

13 Essentially, it's a statistical evaluation of how
14 much is produced versus how many events of spills of 1,000
15 barrels or more have occurred. The range of spills that we
16 have had within the offshore program from production platforms,
17 as an example, we have not had a spill of 1,000 barrels or more
18 since about 1980. There have been a few pipeline spills in
19 that time frame, generally on the order of 2,000 barrels.
20 There were a couple in the '80s, I believe, around 14,000 in
21 the Gulf of Mexico.

22 What we do is look at a trend analysis. A trend
23 analysis was included to see if there was a change over time.
24 Platform rate has essentially gone down. Like I said, we
25 haven't had a spill since 1980 of greater than 1,000 barrels.

1 The pipeline rate has been pretty much staying on the same
2 level. That's one number. Another thing to look at, again,
3 the size of the spills that, again, we have had within our
4 program. I know that people think of the Exxon Valdez, the
5 240,000 barrels that were spilled from that. I think our
6 largest spill that we have had within the last 10 to 20 years
7 is probably around 14,000 to 15,000 barrels. You can check
8 that, but there's a difference in magnitude now. So it is that
9 type of evaluation that has gone in.

10 Now, is it appropriate for the Arctic? One can
11 argue, you know, both ways. There are certain designs that go
12 in, be it a hurricane in the Gulf of Mexico, or ice effects,
13 you know, as far as platforms in the Arctic, or earthquake
14 protection and so on that are built in, depending on where you
15 are.

16 MR. EMERSON: Depending on how many anchors you have
17 et cetera.

18 MR. GOLL: Yes. Primarily, yeah, the pipeline spills
19 are due to anchors from fishing activities or whatever, from
20 dragging along the bottom and poking a hole in the pipeline.
21 It hasn't been so much the integrity of the pipes.

22 MR. FOLEY: In the detail that you just described, is
23 that somewhere located in the EIS? I couldn't find it.

24 MR. EMERSON: It's located in section 4(a).

25 MR. FOLEY: Okay.

1 MR. EMERSON: All of the assumptions that go into the
2 analysis are in section 4(a).

3 MR. STANG: And if you want to get into the
4 statistical bases, we have a group back in Virginia that
5 focuses on this particular issue.

6 MR. FOLEY: Okay.

7 MR. FENTON REXFORD: Yeah. The three outlined items
8 there, they're ongoing concerns right now. Before we move on,
9 I know that there are some important things that need to be
10 done. Like for No. 2, North Slope Borough and community
11 participation will continue meetings on some recommendations
12 that were brought up that became new issues as far as in the
13 public hearings and written comments. I know that those are
14 going to be very important for our area on the North Slope, the
15 coastal villages, and the government there.

16 And then the timing for our next meeting. I don't
17 see how -- or at least my feeling today is that I don't know if
18 we will come up with -- at this meeting or the next meeting,
19 that we will come up with the alternatives or new things to
20 look at for the final EIS.

21 MR. GOLL: We're hoping for this meeting. That,
22 again, was the purpose of this meeting, to see if there are
23 other alternatives or mitigation that we might have to evaluate
24 in the EIS.

25 MR. EMERSON: You might know how you feel about that

1 tomorrow if you've covered any ground along that line.

2 MR. FENTON REXFORD: I know that there were some
3 ongoing meetings and some things that were going to be met with
4 up at the North Slope Borough and some community members
5 regarding Lease Sale 170 on some new issues that are coming up.

6 MR. GOLL: Are you referring to the comments that we
7 received from the Barrow Whaling Captains?

8 MR. FENTON REXFORD: Yes.

9 MR. GOLL: We had a discussion with Meg Ahmaogak last
10 week, and we will be putting together -- as I think Ray was
11 mentioning, we will be putting together our revisions to that
12 section. And what she suggested is rather than doing all of
13 that last week, is that we take a little more time to do the
14 revisions for that part and send it back to the North Slope for
15 people to look at, and then we would have a meeting after that
16 to go over again, you know, our comments on that.

17 That would likely occur towards the end of August or
18 the beginning of September, is what she was talking was a good
19 time. The comments that we received, as my recollection,
20 again, was primarily aimed at the information and the analysis.
21 And I think that, again, we have identified you know, whether
22 there are any other deferral options or mitigation. I don't
23 think there was a direct recommendation within that part.

24 Now, we did get the comments from the North Slope
25 Borough with regards, again, to, you know, the deferral for

1 Cross Island and some other suggestions. Both letters are in
2 here.

3 If there are no more comments for Ray, then maybe we
4 have a choice right now as whether (a) this would be a good
5 time to break for lunch, or (b) whether we should decide what
6 issues and in what order we want to take them this afternoon.
7 Is there any overwhelming view?

8 MR. GRAY: I think it might be good to get a general
9 idea of what you want to focus on this afternoon. And that way
10 we could think about it over lunch.

11 MR. GOLL: We could take 15 or 20 minutes to do that.
12 And again, Ray, if we could get a copy of that one slide made.

13 MR. EMERSON: And you need to realize that this is
14 just a general copy.

1 MR. COUGHLIN: The Staines River, it's not even on
2 this map. So it would be west of the Canning River?

3 MR. EMERSON: It's on this map back here. The
4 Canning is this area right here.

5 MR. COUGHLIN: All right.

6 MR. EMERSON: The Staines River is right here.

7 MR. GOLL: The Staines is the boundary of the Arctic
8 Refuge?

9 MR. STANG: Correct.

10 MR. COUGHLIN: I guess I would like to see it on a
11 map because it's not on this map that has been passed out.

12 MR. STANG: We can draw it right on the map.

13 MR. COUGHLIN: Okay.

14 MR. GOLL: That is, of what we have got right here,
15 is the Canning River the most western tributary?

16 MR. BROCK: It should be right here.

17 MR. GOLL: And that is the western boundary to the
18 Refuge.

19 MR. FOLEY: So if you were to draw a north/south line
20 here on the map.....

21 MR. SOUSA: In terms of defining that, the
22 recommendation we made at Fish and Wildlife Service is we went
23 146 degrees west.

24 MR. FOLEY: So that's at a 146 degrees.

25 MR. ZSELECZKY: So, Pat, that's a different

1 north/south line?

2 MR. SOUSA: Right. See, we had that same question
3 our recommendation as to where the line would be drawn.

4 MR. FOLEY: Can you show us where it falls on these
5 OCS blocks?

6 MR. COUGHLIN: Actually, I see what these marks
7 represent. It looks like it would run between Block 6858 and
8 Block 6859. That's what it looks like to me. And I guess if
9 the basis for that deferral is for protection of ANWR -- is the
10 request to include the entire acreage within the area that is
11 the sale area, or is it to include, say, the most southerly
12 two-mile acreage, or the most southerly three-mile acreage?

13 MR. EMERSON: There are a variety of comments that
14 are all over the place on that concept. So what we're doing --
15 right now is looking at that to see what indeed what would be
16 put forth. I would assume that that recommendation would be an
17 active part of that group right here. I don't think that we
18 have the details that you're asking for today. The comments
19 are still to be assembled.

20 MR. COUGHLIN: Well, I guess I have a fundamental
21 question. Is that equivalent to a no-sale alternative? I
22 mean, is there going to be a resource evaluation done?

23 MR. EMERSON: On that one?

24 MR. COUGHLIN: Yes.

25 MR. EMERSON: I don't believe so.

1 MR. COOKE: If it goes forward as a formal proposal,
2 then I think that it would be somewhat different than the
3 current Kaktovik deferral. I don't think that it would be a
4 no-sale determination.

5 MR. COUGHLIN: I guess I would like to know if the
6 acreage involved in that request is equivalent to the Nuiqsut
7 deferral request.

8 MR. FOLEY: You mean the quantity of acreage.

9 MR. COUGHLIN: Yes. In the number of acreage.

10 MR. COOKE: I think the concern in the Nuiqsut
11 deferral was more on location and the existing infrastructure,
12 whereas there, you do have the two known discoveries. There
13 are some economics right now, so that it's not that that area
14 wouldn't have prospects in it, it's just whether they would be
15 economic today, in the near term. So they would probably be
16 discounted more by our methods. So, because of that, the
17 resource fact isn't as large as it would be right in close to
18 the existing structure.

19 MR. GOLL: I guess right now, we're trying to
20 identify the topics that we will be going through, and this
21 definitely sounds like it will be one of the topics.

22 With regards to alternatives, we did receive the
23 request from the North Slope Borough to include something
24 around Cross Island. And I think, again, that we would like to
25 discuss that, whether again, we would include another deferral

1 option for the area around Cross Island or some kind of
2 combination of mitigation measures or whatever, because it
3 wasn't totally clear from the North Slope Borough. It was,
4 essentially, they forwarded the comments that were sent to the
5 State. So we would like some clarification of what that would
6 include. It also implied primarily aimed at the fall migration
7 again. So is that really a deferral, or is that, again, more
8 of a mitigation, you know, some kind of a requirement?

9 Let me bring up one other. The Nuiqsut deferral, we
10 did mention why we did not include that before. But again,
11 with relation to Nuiqsut or Cross Island, are we okay with
12 where we are, or will Cross Island take care of it? Maybe
13 that's part of the Cross Island discussion.

14 MR. NAPAGEAK: I'm a Whaling Captain, and I would
15 consider Cross Island as my second home, and that is where I
16 my fishing and hunting. And the deferral of 10 mile -- the
17 community itself had requested -- am I right, Bob Brock? -- a
18 50-mile radius at one time?

19 MR. BROCK: That was one of the discussions.

20 MR. NAPAGEAK: Yes.

21 MR. BROCK: There was numerous mileage mentioned,
22 and that was one of them.

23 MR. NAPAGEAK: Go to the fact that the 50-mile radius
24 deferral. As a subsistence hunter, I kind of thought that was
25 out of hand, so I requested 10 miles, and that is where we

1 stand. And that is where I would like to stand today.

2 MR. GOLL: So we will bring that out this afternoon
3 then.

4 MR. NAPAGEAK: Okay.

5 MR. GOLL: With regard to the alternatives, is that
6 primarily the only one? I don't know if Ray is still here.
7 Are there any other prime alternatives that were recommended in
8 the comments that we might need to discuss?

9 MR. NAPAGEAK: That's the only one.

10 MR. GOLL: Okay. Unless anyone here at the table has
11 others. With regard to mitigation measures, are there any
12 specific ones that people may want to address this afternoon or
13 tomorrow morning? I guess what we can do is quickly go through
14 them when we get to that point.

15 MR. NAPAGEAK: One of the things I would like to hear
16 a little bit about is on the Cisco fish migration.

17 MR. GOLL: Okay.

18 MR. NAPAGEAK: Being from a community that subsists
19 pretty much on fish. The majority of the fish that have been
20 tagged, I would like a little bit more information on that.
21 Are they migrating from the east along the coast line? I'm
22 pretty sure that we can get some Fish and Wildlife information.

23 MR. GOLL: Okay. Is your comment aimed more at, that
24 we need more information for the EIS?

25 MR. NAPAGEAK: Yes.

1 MR. GOLL: For I know in Nuiqsut that there was some
2 comments about what if there were some more causeways.

3 MR. NAPAGEAK: Yes.

4 MR. GOLL: For example, and we can discuss this again
5 this afternoon. And somebody can correct me if I'm wrong, but
6 causeways won't likely be used in the future. Is that safe to
7 say, or do we need to discuss that?

8 MR. FOLEY: Well, I don't think anyone is going to
9 say definitively that there is never going to be another
10 causeway built.

11 MR. GOLL: Yeah.

12 MR. FOLEY: But, you know, whereas years back, we had
13 this concept that we needed ground access to all of our
14 facilities, and it had to be causeway connected. And we're
15 departing from that. I know that ARCO and BP are both
16 considering developments that are isolated and only have air
17 access. So it is more than likely that offshore development
18 would not have a causeway to it.

19 Now, is it an absolute definitive statement that
20 there will never be another causeway? Probably not. I
21 recognize, working for ARCO, that it would be awfully difficult
22 to get consent from all of the people to allow us to build a
23 causeway.

24 MR. ZSELECZKY: I agree with Pat; it is very
25 unlikely.

1 MR. FENTON REXFORD: I guess we will reach those
2 mitigation points when we come up with some issues on how to
3 deal with that. Especially Cross Island, and also some
4 monitoring program for the bowhead.

5 MR. EAGLETON: So there would be a Cross Island
6 deferral and a Kaktovik deferral?

7 MR. GOLL: That's what we will be discussing this
8 afternoon.

9 MR. EAGLETON: All right.

10 MR. NAPAGEAK: Including the causeways?

11 MR. GOLL: That will be discussed also.

12 MR. FOLEY: Mr. Chairman, would you like a motion
13 that we break for lunch?

14 MR. GOLL: I think so, seeing as we are at that
15 point. The schedule says we were to be back at 1:30, but let's
16 try to be back at 1:15.

17 (Off record at 11:48 a.m.)

18 (On record at 1:30 p.m.)

19 MR. GOLL: I guess we're all back now. Again, we
20 passed out the members' phone numbers and so on. The Sale 170
21 issues that Ray Emerson showed this morning, everybody does
22 have a copy of that. And then a little diagrammatic of the
23 sales schedule.

24 For this afternoon, what we would like to go into is
25 the issues that we were talking about this morning, to identify

1 which ones to go through. And perhaps if we first could go to
2 the recommendations of the North Slope Borough on the deferr
3 of the Cross Island area to understand, again, the request and
4 issue that it is addressing and the recommendation from the
5 group with regard to that area. And the letter that we
6 received from the North Slope Borough requested a 10-mile
7 radius.

8 Thomas do you want to lead off?

9 MR. NAPAGEAK: I want to ask Tom Lohman to elaborate
10 a little bit on Cross Island.

11 MR. LOHMAN: Once again, I'm Tom Lohman, with the
12 North Slope Borough. I'm on staff with Thomas Napageak today.
13 The Borough's request came not only from the Borough but, I
14 think, from the Barrow Whaling Captains and the AEWC, of which
15 Thomas is the Chairman. It might help to give a short
16 background also on the recent planning process on State Sale
17 86, which is the in-shore waters of this Federal Sale 170.

18 We evaluated the coastal consistency determination on
19 Sale 86, to the State Directors, the result of which is, I
20 believe -- if Glenn could help me out -- is a prohibition on
21 service facilities in the State, three miles on and around
22 Cross Island. Glenn, is that correct?

23 MR. GRAY: Yes. Unless there is some determination
24 made in consultation with the Borough.

25 MR. LOHMAN: With consultation. But essentially,

1 that is what we asked for. And that was the primary issue in
2 the evaluation, and that is what we got. Thomas mentioned
3 earlier, I think, there was some discussion about an earlier
4 Nuiqsut request for a 50-mile buffer around Cross Island. The
5 Chairman, Thomas, took some heat, to be honest, over that in
6 his own community. Some of that was probably the Borough's
7 fault for not communicating what had taken place at a meeting
8 here in Anchorage on January 10th.

9 I think that Ray described in his presentation that
10 Thomas understood, and made very clear to MMS that he
11 understood, that a 50-mile deferral was essentially the same as
12 a no-sale alternative, and that that analysis has already taken
13 place as a requirement in the document. That he would rather
14 discuss a more grounded request for Nuiqsut in terms of what
15 their actual concerns were. And he was understanding at the
16 time that to put an arbitrary 50-mile line around Cross Island
17 was not exactly what they needed or wanted, or was reasonable
18 to consider in the documents.

19 In the context of our evaluation on Sale 86, we tried
20 to get more at exactly what we felt the folks in Nuiqsut needed
21 to protect their subsistence whaling activity, which take place
22 primarily the first part of September and are based off of
23 Cross Island.

24 If you will remember, the map that didn't show
25 Nuiqsut on it, it showed all of the different fields and the

1 activity taking place, not only offshore but onshore as well,
2 in the Nuiqsut area; there is a tremendous amount. Not only
3 the community of Nuiqsut, but it would have been useful to put
4 Cross Island on that map, or another map, as well. The one
5 that Ray showed with the highlighted kind of fuschia area gives
6 you kind of an idea of how close things are getting to that
7 subsistence area.

8 And I think, to be honest, in my mind and among some
9 of the staff members of the Borough, we think, actually, 10
10 miles is too little. But Thomas and the folks in Nuiqsut had
11 sat down and decided that that is about the minimum that they
12 can sit still for, when you talk about the most critical
13 subsistence area to that community.

14 That's the area where they traditionally harvest the
15 whales. It gets enough, or at least a bit of the way to the
16 east, which is the way the whales are coming from, and
17 hopefully will prevent some of the defection of the whales,
18 which will take place around and outside the traditional
19 whaling zone, which tends to be -- and Thomas can correct me --
20 a little bit north of Cross Island, and perhaps a little bit to
21 the east. But 10 miles is sort of the absolute minimum that
22 they think that they need to protect and to preserve
23 subsistence harvest of whales in the fall.

24 Now, is there a way to protect that without
25 prohibiting surface facilities or deferring the area? I think

1 our conclusion in the Borough was -- and that is what's in the
2 letter -- that there is no way. When you talk about
3 development, you are talking about permanent facilities. And
4 that's something that I don't think these folks can live with.
5 And to be honest, under our Borough Coastal Management Program,
6 we would have a hard time, for instance, permitting or finding
7 consistent anything of a permanent nature, say eight or nine
8 miles to the north or to the east of Cross Island.

9 So we think that as you read through our Coastal
10 Management Program, it really has no substance at all if you
11 don't use it to prohibit something like that. There are
12 provisions that talk about protection of migrating bowhead
13 whales, and there are provisions that talk about preventing --
14 or guaranteeing subsistence user access to subsistence
15 resources. And if you're not talking about prohibiting a
16 facility five or six or seven miles from Cross Island, then
17 we're not sure what our Coastal Management Program is there
18 for.

19 So that maybe is a little summary of why we ask for
20 the 10 miles, how it ties in. Even after given some debate
21 with the State. I don't know if that's what you wanted me to
22 talk about, Thomas, or anything more.

23 MR. NAPAGEAK: You got what we have been talking
24 about all along. The community itself had requested a
25 substantial amount, but we talked them into something that we

1 hope will be acceptable.

2 MR. GOLL: Maybe a clarifying question or two. W
3 it a circle around Cross Island, or was it the area outside of
4 the Barrier Islands?

5 MR. NAPAGEAK: It's a 10-mile radius of Cross Island
6 itself. See, the bowhead whale migrate through the land side
7 and the ocean side. They migrate around the island. So that
8 is the reason why we had dedicated a 10-mile radius.

9 MR. LOHMAN: And as I said, I think 10 miles seems
10 sort of arbitrary to me as well, the same way as the 50 miles
11 was arbitrary. But I don't want to put Thomas on the spot
12 because he will pay for it later. But it might be useful to,
13 at some point, today or some other time, sit down and go tract
14 by tract and just look at the map and say, 'These are the
15 tracts we're talking about.' Maybe depending on where the
16 traditional harvest zone is, you don't need something to the
17 west of Cross Island.

18 But Thomas, better than anyone here, can talk about
19 the traditional harvest zone around the island where they
20 usually get whales. And again, if Thomas or someone else wants
21 to talk about the idea of not only protecting the tracts where
22 they take the whales, but the idea of protecting the tracts
23 essentially upstream in the migration, to prevent the whales
24 from being defected around the traditional harvest zone, that's
25 something that we tried to get at in our conversations with the

1 State and, I think to be consistent, ought to bring up here.

2 And again, MMS held a workshop in Barrow in March to
3 talk about seismic noise in particular. When we're talking
4 about this deflection area, it's important to understand the
5 deferral area, we're talking about prohibition on service
6 facilities. We think, I think at least, that mitigating
7 measures can deal with the seismic issues. Limited seasons, I
8 think, can satisfy the seismic issue.

9 So the numbers that were tossed out at the seismic
10 workshop in Barrow in March, the 30 or so miles that I heard
11 mentioned earlier, we're talking apples and oranges; those
12 numbers were dealing with seismic response. It might be
13 useful -- my concern in the deferral area is essentially to
14 give us a noise-free area in which they can whale. The noise
15 we're talking about is exploration and development noise.
16 Exploration noise, I think, can also be handled seasonally.

17 So we're talking about, What are you going to do
18 about development in that area? And if somebody can maybe talk
19 about the noise generating properties of whatever kind of
20 facilities that will be used to develop a field out there, we
21 would have a better idea of what size of an area we would need
22 to prohibit facilities in to protect the subsistence harvest
23 and the whale migration. And that's where the 10 miles came
24 from. It seems more reasonable than the 35 with the seismic
25 noise, and we thought the three that we got from the State

1 wasn't enough.

2 MR. FOLEY: There are now existing leases within
3 10-mile radius. How would these restrictions affect those
4 leases? Did you think that through?

5 MR. LOHMAN: They wouldn't affect them. They are
6 essentially grandfathered in.

7 MR. NAPAGEAK: There were some leases at one time
8 back in the '80s, and from that time forward, we have insisted
9 that there be a deferral. Cross Island is very important to
10 the subsistence hunters. We are 12 miles out in the Beaufort
11 Sea. When a storm hits at 60 miles an hour, you are very
12 uncomfortable, but you are comfortable at the same time being
13 on an island. So with that in mind, it's a historical whaling
14 place from way back, and I would ask that that be deferred.

15 MR. GOLL: I think part of Pat's question also was,
16 on the map that we passed out, the areas in blue are the
17 existing leases. So there would be some existing leases within
18 that area that we would have to -- well, again, for the sale,
19 they would not be affected, but I'm sure there would still be
20 an issue with that, that we would have to address at some time.

21 MR. NAPAGEAK: I'm pretty sure that some of the
22 leases have expired, to my knowledge.

23 MR. LOHMAN: There are still some active leases,
24 Thomas.

25 MR. NAPAGEAK: Pardon me?

1 MR. LOHMAN: There are still some active leases in
2 that 10-mile area.

3 MR. NAPAGEAK: Okay.

4 MR. FOLEY: Let me see if I can develop a point here.
5 It would be my strong preference to not defer any portion of
6 the sale area. Now, I understand that there may be certain
7 areas that have very valuable resource potential for whaling or
8 for any other reason that the oil industry activity could be
9 restricted. But it would be my preference to offer all of the
10 lessees at the sale, put the potential purchasers on notice of
11 a difficult permit process that that person is going to have to
12 go through before they get surface entry, but basically, leave
13 it up to the permitting process for specific activities and the
14 mitigation measures.

15 It may be that, given the opportunity, the specific
16 oil companies that want to go forward with a particular
17 operation may be able to negotiate with all of the impacted
18 people and organizations a acceptable plan to go forward. And
19 it would be my preference to not prevent that today by
20 excluding it from the sale.

21 MR. LOHMAN: And that is what I think we negotiated
22 with the State. If Glenn has that language at the tip of his
23 tongue, I certainly don't. But it was prohibition of surface
24 entry, subject to -- what was the term of art we used for that?

25 MR. GRAY: I have the language here.

1 MR. COUGHLIN: I think it was permanent facilities,
2 wasn't it?

3 MR. LOHMAN: Yeah.

4 MR. GRAY: I would be happy to read it. It says:
5 "Permanent facilities residing in State waters
6 within three miles of Cross Island will be
7 prohibited, unless the lessee demonstrates to
8 the satisfaction of the Director, in
9 consultation with the North Slope Borough, that
10 the development will not preclude reasonable
11 access to whales, as defined in...."

12 And you'll have to help me. It says "NSB CMP Policy."

13 MR. LOHMAN: Yeah. Coastal Management Program.

14 MR. GRAY: Okay. "2.4.3 paren (d), and NSB MC...."

15 MR. LOHMAN: Municipal Code, I assume.

16 MR. GRAY: "...19.79.050 paren (d), paren (1),
17 and as maybe determined in a conflict avoidance
18 agreement, if required by the North Slope
19 Borough."

20 MR. FOLEY: I guess my point is, we can argue all day
21 long, should it be one mile or ten miles? And obviously, my
22 preference would be as small as possible, and the whalers'
23 preference would be as large as possible. But what I would
24 like to do is to strive for some type of agreement, stipulation
25 like, that could resolve the issue such that the tracts could

1 be offered for lease.

2 MR. ZSELECZKY: Yeah. If I could add to that, Pat.
3 I came here today -- I canvassed industry about their comments
4 and suggestions. And I would have to say they weren't really
5 given the opportunity to consider the Nuiqsut deferral. It
6 wasn't in the plan. So to get fair comments from them, I would
7 have to go back, but they did give me some suggestions. In
8 general, they support Alternative 1. And I have their reasons
9 for it, but they also follow the general line that they would
10 like to try to work through mitigation measures rather than
11 wholesale exclusions or deferrals.

12 I don't know if this is the appropriate time, but I
13 would like, at some point in the discussion, to go through
14 those consensus reasons that they give for wanting
15 Alternative 1.

16 MR. FENTON REXFORD: Now that things are out on the
17 table, I myself would like to have no sale. After listening to
18 the people up north, and I'm also hearing from my community, a
19 Kaktovik deferral, which is one the alternatives. So my first
20 choice is absolutely no offshore lease sale, since now we are
21 starting to talk about that.

22 MR. SOUSA: In terms of the comment about resolving
23 the issue, or by leaving it open to leasing and resolving the
24 issue, it strikes me that it resolves it only on one end of the
25 spectrum and not on the end of the spectrum of the users. By

1 leaving it open, then the users, the AEWC and the individual
2 Captains, are going to have to be dealing with this over and
3 over again with a variety of potential bidders and, obviously,
4 with other agencies as well.

5 And I guess I'm having -- trying to find -- in
6 hearing the two sides, trying to find something that says this
7 will resolve it to the satisfaction of both ends of the
8 spectrum. I haven't heard that, and leaving it open to me
9 doesn't do that. And I'm obviously not speaking from the
10 perspective of the user but my own view of what I have been
11 hearing.

12 MR. FOLEY: Well, let me just offer something else
13 here. I would hate to cast in stone today any kind of a limit
14 because of the way technology is changing. Today the industry
15 is able to directionally drill a certain distance, but it ha
16 grown quite dramatically over the last few years. And I think
17 we all optimistically anticipate that it will continue to grow.
18 But we don't know what that distance is, and it would be
19 unfortunate for a tract to be excluded from a sale that, say,
20 10 years from now, that same tract could be efficiently drilled
21 and drained without surface access.

22 MR. SOUSA: Could that not be resisted then at that
23 point?

24 MR. COUGHLIN: I don't see how it could be resisted
25 if you don't offer the acreage for lease.

1 MR. SOUSA: Resisted in the sense that if technology
2 caught up to the point where, if 10 years from now, the
3 technology would satisfy the concerns of the residents, would
4 that area be available for leasing?

5 MR. COUGHLIN: A deferral, to me, doesn't mean
6 forever and ever. What a deferral means is let's put this off.

7 MR. FOLEY: What it really means is there will be no
8 exploration. Without exploration, you are not going to find
9 out what is there. And it seems to me, at that point, that you
10 want to consider -- I mean, for example, the mitigation example
11 that was agreed to between the parties that appeared in the
12 State, it doesn't say you can't have exploratory drilling.
13 What it says is no permanent facilities. And it puts the
14 burden on the lessee to come to the affected communities, and
15 they have to demonstrate whatever it is, that technology at
16 that time has been satisfied. I think that it is a high
17 standard, but it doesn't preclude the sale from actually
18 occurring.

19 MR. NAPAGEAK: I believe with Fenton here, that the
20 sale here doesn't happen until everybody is educated as to the
21 impact the Exxon Valdez had on these birds, sea otters, and
22 whatnot. Because all of these reports are hidden from the eyes
23 of the people that are going to be affected on the Beaufort Sea
24 incident if it should happen. It's hidden from their eyes.

25 Yet it has been reported in the papers, but hardly

1 anybody -- I mean, the majority of the Natives don't read
2 newspapers. Although I have seen documentation on videotape
3 about the birds and sea otters that were practically
4 slaughtered by oil spill. And we have got much more to lose on
5 the Beaufort Sea. So proper documentation and presentations
6 for the Natives as to what an oil spill will do needs to be
7 looked at.

8 MR. BURTON REXFORD: I hear what the Slope people are
9 saying. I'm from the Slope myself. I think we have enough
10 brains here to work out a resolution, start a working paper and
11 rework it and everything else, to find a resolution to this
12 problem.

13 MR. GOLL: Maybe I could ask a couple more questions
14 to generate some more discussion. Again, what we're looking
15 for here is not necessarily the final decision, but what we,
16 you know, should be evaluating within the final EIS. So there
17 are certain things that we can evaluate and answer some
18 questions with regard to that. I guess part of the question is
19 the shaded area here and, again, a no occupancy zone.

20 When Tom Lohman was going through his description, he
21 did mention that seismic could be taken care of through
22 stipulation. Exploration possibly could also because of noise.
23 But then there is the question that we have always had in the
24 offshore program, well, the separation of sense, of leasing
25 from development that if something goes forward, does that

1 absolutely give the assurance of development occurring?

2 Pat Foley, was mentioning that maybe some language
3 could be put together to say that we could pull that apart, of
4 putting companies on notice that they may not necessarily have
5 the right to develop if certain things are not do-able in those
6 days.

7 MR. FOLEY: Yes. That's perhaps putting some words
8 in my mouth, but the bottom line is we still, as an industry,
9 need permits to go forward with operations, and without those
10 permits we can't do it, and that there is at least one more
11 opportunity to say yes or no to development. I mean, working
12 for ARCO in California, we are a perfect example of purchasing
13 leases, exploratory success. It was the State of California,
14 it wasn't the federal government. But those leases were
15 practically taken back from us. We were prevented from
16 developing. We didn't like it, and there was a huge lawsuit
17 that ensued, but it happens.

18 MR. GOLL: If deferrals with mitigation were done for
19 this area, let's say, that did not allow activity while the
20 whales were migrating, such that activity could occur at other
21 times of the year, but then with the provision that there would
22 be no development, unless these problems are resolved, would
23 that be a solution?

24 MR. LOHMAN: I'm looking at Thomas on this one
25 because the Borough is really deferring to the folks in

1 Nuiqsut. And we're trying to figure out, and I think the folks
2 in Nuiqsut are trying to figure out, is whether this is
3 something that they are going to -- one of our folks at the
4 Lease Sale 86 meeting that we had back in May said it's an
5 equivalent of -- given all the activities around them, it's a
6 situation where someone is finally walking up to them and
7 saying, 'We have pushed, we have shoved, we have, you know,
8 socked you in the belly a few times over the years, and now we
9 are going to take our finger and shove it in your eye.' And
10 they're going to tell you that it is a very clean finger, but
11 we are still going to shove it in your eye, and what do you
12 think about it. And most reasonable folks would say, 'Don't do
13 that.'

14 And we're looking for Thomas and the folks in Nuiqsut
15 to say is this a thing where they want a deferral, which is
16 absolute no, or is it something like the language that was read
17 earlier? Where it is a yes, where there is a very clear red
18 flag, where they are going to have some hoops to go through if
19 you want to do anything, five, six, seven, eight years down the
20 line after you explore. And we're looking to Nuiqsut for some
21 guidance on that.

22 When you look at that ocean out there and you look at
23 their lifestyle, then it's not unreasonable for me to say 10
24 miles is not an awful lot. Look at everything else that's
25 going on to the east and to the west and Alpine and NPRA, and

1 Liberty and North Star and so on. Ten miles is not a big chunk
2 of ocean, but I'm looking for Thomas to make that decision.
3 And I think the Borough will back them up. And we have the
4 tool in federal waters, in our Coastal Management Program, to
5 back them up, which is independent to any language that you put
6 in your lease, is something that we have to work with.

7 MR. NAPAGEAK: The point that you brought up
8 pertaining to the California coast, the environment up here is
9 a hundred times over than the coast in California, I would
10 assume. Because there is no technology that an oil spill can
11 be taken care of during the winter months when the ocean is
12 frozen over. These techniques will have to surface, before any
13 lease sale clears, I would think. Of course, if there is a
14 dictator type government, they can go ahead and proceed.

15 But that's not a democratic way, I don't think,
16 because there are people who are living up north.

17 MR. GRAY: John, a point of clarification. I guess
18 I'm a little confused about the discussion. Are we discussing
19 whether or not there should be a deferral or whether there
20 should be a deferral considered in the EIS?

21 MR. GOLL: A deferral considered in the EIS.

22 MR. GRAY: All right.

23 MR. GOLL: This is not a discussion on the end. But
24 what we received from the North Slope for Nuiqsut was a request
25 that we include a deferral option. Now, again, we would have

1 to evaluate it in the EIS, so we were trying to get
2 clarification over what that would be for the analysis. Now
3 the decision on that, again, would be coming this fall, when we
4 are going through the preliminary notice of sale, whether that
5 would be the direction that we would be going.

6 So what we would be doing -- what we are asking for
7 now, is a deferral for Nuiqsut. How do we describe that? The
8 proposal here is a total prohibition, I think, as Tom Lohman
9 was saying within essentially what this purple area would be.
10 I think we would have to define what lease tracts and so on.

11 MR. ZSELECZKY: An exclusion from the sale.

12 MR. GOLL: Excluding it from the sale. Yes.

13 MR. ZSELECZKY: Yeah. One of the comments I got
14 consistently from industry -- by "industry," I mean I talked to
15 about 18 companies, and the term "deferral" was very confusing.
16 Not only do they not like deferrals, as a matter of policy, I
17 guess, but the question kept coming up, Deferred until when?
18 And the examples that they used was in Sale 144, there was a
19 deferral from Kaktovik eastward. Well, that sale has now
20 happened and that acreage was not offered.

21 So where are we? Does that come up again in the true
22 meaning of a deferral, or was that an inclusion for all time?
23 It's just not clear to industry. So I think if we're going to
24 talk about Nuiqsut, what we should be clear about -- what we
25 are talking about today is we are talking about excluding that

1 acreage from the sale area. That's what we seem to mean by
2 "deferral."

3 MR. EAGLETON: Do you leave that up to the individual
4 lease tract or each permittee or lessor to go through that
5 permit process? You are going to be revisiting the same
6 argument over and over. Countless times we are going to get
7 the same thing. It just seems like if you say, this 10 miles
8 is essential to our subsistence, then just leave it at that.

9 Or otherwise, you're going to -- or anybody can come
10 over and say, 'Well, I want this tract right here, and I've got
11 some money and I'm going to get it this way.' And then if we
12 go to court over it, our federal court will just stamp a denial
13 on it anyway, on all of the stuff that will be awarded, because
14 we don't have enough scientific information to prove them
15 wrong. And that's what the bottom line kind of gets down to.
16 So if they're saying, 'Fifty miles we thought would be
17 essential, but now we're down to 10. This is what we really
18 need, 10 miles around this place,' by having those lease tracts
19 open, you are just going to revisit the same argument over and
20 over again.

21 MR. COUGHLIN: Actually I don't think history bears
22 you out. As far as I know, nobody has even applied, and I
23 don't know when you had your first lease sale, but in the
24 entire -- since the federal government began leasing offshore,
25 I don't think anybody has applied to build a permanent

1 production facility out there. So I guess I don't think
2 history bears you out, that this issue will repeat itself o
3 and over if someone drills something and finds something.

4 MR. EAGLETON: Mm hmm (affirmative).

5 MR. COUGHLIN: Then the issue will probably come to a
6 head, if they find something that is economic and they wish to
7 go forward with production. It will presumably cover an area
8 that would be large enough that would raise concerns, and the
9 issue could be addressed at that time. I simply just don't
10 think that there are bases for the statement.

11 MR. EAGLETON: But it would be the same issue though.

12 MR. COUGHLIN: That it will come up over and over?
13 It may be discussed one time, and it probably would be decided
14 at that point.

15 MR. EAGLETON: I guess I need clarification then.
16 The deferral area would exclude only production and permanent
17 structures and not exploration. Or is the Slope looking for
18 any activities in that area?

19 MR. GOLL: That was part of the question that I was
20 asking, whether there is a difference. Tom Lohman, when he was
21 describing an approach, implied maybe exploration could be
22 different. But in the end it comes down to a prohibition on
23 development.

24 MR. EAGLETON: Mm hmm (affirmative).

25 MR. GOLL: So the question is, Do you offer industry

1 the opportunity to find out if there is something there? If
2 they find out no, there is nothing there, they walk away. If
3 they find out there is something there, then they have to make
4 a decision on whether or not it's worth trying to develop the
5 technology to do a no-surface occupancy. I guess that's how it
6 would work. Maybe that's what's being proposed by the State?
7 I could ask that. And whether a deferral option for a federal
8 sale would follow the same approach or not.

9 MR. LOHMAN: I think -- I'm not a member of the
10 group, but I think -- and I'm trying to be careful. Perhaps a
11 deferral which is an exclusion from the sale completely of the
12 tracts, does that get at the Borough's concerns? Certainly
13 that would take it off the table, and we would go home happy.
14 Are our concerns still addressed by allowing the tracts to be
15 sold by putting a couple of hurdles and acknowledging other
16 hurdles that already exist in a way that anybody that wants to
17 go forward with a development?

18 I think that we are 95 percent of the way there. You
19 know, it's not the insurance and the comfort level isn't there,
20 but it's where we left with the State. And I guess if we want
21 to be consistent, and Nuiqsut thinks that it's okay, then it's
22 not up to us, but I think they have to understand that they are
23 going to have to play a significant role when it comes up
24 again. And I agree it's not going to come up every other week,
25 but you have to understand -- and I don't know how many of you

1 folks have been to Nuiqsut a lot lately, but the level of
2 tension in the community over the amount of activity that is
3 going on is extraordinary. And the desire to deal with an
4 issue and to put it to bed once and for all is very high.

5 We argued with the State on Lease Sale 86, but we
6 didn't get what we wanted, which was an outright deferral. But
7 the folks in Nuiqsut said, 'We will hold still for the leasing
8 of the tracts with the hurdles in the way.' And I guess the
9 same question is being proposed to Thomas and the folks in
10 Nuiqsut now. And again, focussing on what John said, all we
11 are trying to figure out is what we are going to analyze in the
12 EIS. Do we analyze the deferral, or do you analyze leasing
13 with language that provides some hurdles?

14 And Thomas has asked for before, essentially, a veto
15 authority. I don't think that the language that was read
16 before was essentially a veto authority. It still leaves the
17 decision with the Director of the Division of Oil and Gas, in
18 consultation with the Borough. We will, of course, consult
19 with the communities and AEWG and so on.

20 And, Thomas, I think what they would like is if you
21 don't defer it, go ahead and lease it, and give Nuiqsut a veto
22 authority. If you don't want to give Nuiqsut a veto authority,
23 the closer you can come to that, the more comfortable they're
24 going to be.

25 And again I guess I'll just ask Thomas if he would

1 like them to analyze in the document an outright deferral,
2 which means an exclusion from leasing. Or are you comfortable
3 with letting them analyze a leasing program that includes the
4 tracts, Thomas, but then throw the same kind of language into
5 the mix that was used in Sale 86? The Chairman and the ex-
6 Chairman are consulting.

7 MR. NAPAGEAK: When I worked with Mr. Brock, I talked
8 with my own Whaling Captains and the village of Nuiqsut, of
9 course, the City Council; we had agreed to a 10-mile radius.
10 However, you did receive a packet from Karen Burnell with
11 specifications of what needs to be done on the EIS? Should
12 this go forward? And AEWC stands supporting what the North
13 Slope Borough has mailed to you, because this is the work of
14 me, Maggie, and Karen. I'm pretty sure that you got a copy of
15 that.

16 MR. GOLL: Was that the first letter or the second
17 one that we got?

18 MR. NAPAGEAK: Yes.

19 MR. GOLL: Because I think we all should have copies
20 of the letters.

21 MR. NAPAGEAK: With attachments of comments on the
22 paragraphs. I think if we make a copy and distribute them to
23 everyone.

24 MR. GOLL: I think it should be in this book.

25 MR. GRAY: It's not readable, is the problem, because

1 part of it didn't get faxed properly.

2 MR. NAPAGEAK: You do have it in your notebook?

3 MR. GRAY: Yes, and unfortunately, a lot of the lines
4 are scrunched together so you can't really read it.

5 MR. NAPAGEAK: Maybe we could get a copy of the one I
6 have.

7 MR. GOLL: Yes. We could get copies made of yours.

8 MS. HOPE: What's the date on the letter?

9 MR. FENTON REXFORD: July 15th.

10 MR. GRAY: There are two letters. One July 15th, and
11 the other one is what date?

12 MR. NAPAGEAK: July 28th.

13 MR. GRAY: The 28th.

14 MR. GOLL: 25th?

15 MS. HOPE: That's letter 124, in your second book.

16 MR. LOHMAN: That may have been faxed over to you.

17 MR. GOLL: That is in your book.

18 MR. GRAY: 124, is that right?

19 MS. HOPE: 124.

20 MR. NAPAGEAK: In the deferral area. What the EIS
21 leads to along with what the North Slope Borough is saying.

22 MR. GRAY: To be honest with you, I couldn't read it;
23 the lines run together on my copy.

24 MR. LOHMAN: The first letter on July 15th references
25 a statement to the State on Lease Sale 86, which is a joint

1 resolution from the Borough, Barrow Whaling Captains, Native
2 Village of Barrow, and the AEWC. And again, I think that that
3 resolution is a little confusing. It is very short, and you
4 have that, I'm sure. It is attached to the letter of the 15th.

5 MR. GRAY: Letter 9, and that's the one that you can
6 read part of it, but you can't read the whole thing.

7 MR. LOHMAN: Can you read the resolution that is
8 attached to it?

9 MR. GRAY: Part of it.

10 MR. LOHMAN: It says:

11 "The North Slope Borough opposes any...."

12 It says:

13 "The North Slope Community opposes any industry
14 activity within 10 miles of Cross Island during
15 the fall bowhead migration."

16 And that's industry activity. And then it says:

17 "We oppose any exploration, development, and
18 transportation within State waters surrounding
19 the island unless there is a conflict avoidance
20 agreement in place between industry and the
21 Alaska Eskimo Whaling Commission."

22 That, to me, gets back to the language that was read
23 earlier. It's not a prohibition; it's a prohibition unless
24 there is a conflict avoidance agreement, which gives industry
25 the opportunity to negotiate with the affected parties, the

1 users, and go forward. It sounds to me like you can go forward
2 with leasing.

3 MR. NAPAGEAK: Mm hmm (affirmative).

4 MR. LOHMAN: And then the last paragraph says:

5 "We urge you to delete any consideration of
6 State waters within 10 miles of Cross Island.
7 This opposition is in support of the whaling
8 community of Nuiqsut, which depends on bowhead
9 whaling in waters surrounding this Island."

10 So reading it in the light that would favor leasing
11 restrictions, you look at paragraph 2. Reading it in light of
12 something that would favor outright deferral, you would look at
13 paragraphs 1 and 3. Admitting publicly, which I'm ashamed to
14 do, but I'm a lawyer, so you would try to find the least
15 restrictive -- or you go with the least restrictive language
16 you can find.

17 But again, Thomas is the Chairman of the AEWG as well
18 as the head of the Whaling Captains in Nuiqsut. And again, if
19 Thomas is satisfied that we can go ahead and lease something
20 and give them the opportunity -- you know, the Borough may
21 require as part of its permitting process within State waters
22 under our land management regulations a conflict avoidance
23 agreement. We can't require anything under the Coastal
24 Management Program. We can't add conditions the way we can
25 under our land management regulations. We don't have that

1 ability in federal waters.

2 In State waters, we essentially told the State that
3 we are going to require a conflict avoidance agreement, and
4 industry is going to be required to have one in place, or they
5 can't go forward and we won't permit activities. We don't have
6 that ability in federal waters, so we would look for the lease
7 sale to accomplish the same thing, which again, under our land
8 management regulations, gives us essentially the ability to
9 throw a veto authority in the way of anybody that wants to
10 develop in it unless they can convince the Whaling Captains
11 that they can avoid conflicts. We don't have that ability, so
12 we would be looking to MMS to provide that same kind of hurdle.

13 MR. GOLL: So if we included a conflict avoidance
14 agreement within the stipulations, would that do what you are
15 talking about?

16 MR. LOHMAN: And again, you have to define what that
17 means. Does it basically mean that they have to have one in
18 order to move forward, which essentially is a veto authority?
19 That the Whaling Captains -- I don't know if it would be the
20 Whaling Captains or the Borough or the AEWC -- unless they
21 agree, they can't go forward? It takes your permitting
22 authority. It doesn't take our permitting authority in federal
23 waters because we don't have any. We have a Coastal
24 Consistency Review, but we don't have land regulations or
25 permitting authority, so to speak. It takes -- it gives the

1 authority to the users.

2 And I would like to hear from industry as to whet
3 they would be comfortable with that, or if they still want the
4 decision to rest with MMS in consultation with the user groups.
5 But it's the level of delegation of your authority I think we
6 are going to end up arguing about.

7 MR. GOLL: It would probably be clearer, we probably
8 could not abrogate our authority on that, but, in essence, it
9 might be very similar. I mean, if you come up with a
10 stipulation saying that this conflict avoidance has to be done,
11 or certain conditions met, in one sense, we cannot give up our
12 authority, but in another sense, it's giving almost veto power,
13 you know, to Nuiqsut.

14 MR. LOHMAN: The last thing they want, and the last
15 think we want, is that when this question comes up in -- I
16 don't know how many years -- when somebody wants to develop
17 seven miles from Cross Island to the west or to the east, and
18 we provide all the information that we can, the latest state of
19 their knowledge of impacts and so on, maybe North Star is up
20 and running at that time, who knows. And in consultation with
21 them, you decide you are going to go ahead anyway, if you want
22 to see something more than people with placards walking around
23 the outside of a building, you are going to see it if that
24 happens.

25 MR. GRAY: John, can I get a point of clarification.

1 MR. GOLL: Sure.

2 MR. GRAY: Would it be right to assume that anything
3 in blue on this map is not considered in this lease sale
4 because it's already awarded?

5 MR. GOLL: Not necessarily. There are some tracts
6 that might be coming.....

7 MR. GRAY: That might be.

8 MR. GOLL: That might be expiring before the next
9 lease sale. We would know that from that map over there.

10 MR. GRAY: And even so, one thing that is a little
11 misleading to me is that this circle that you see on your map
12 includes State waters. So that really includes more than what
13 we're discussing today. The way I see it, it would be sort of
14 like half a Life Saver. Unless I'm wrong, and someone can
15 correct me, what we're really talking about, we're not talking
16 about the whole circle because, in the center there, the double
17 little circle, the pink areas, are really State waters. And
18 part of the blue areas may be open, I guess. So it may be a
19 little more than half of a Life Saver.

20 MR. NAPAGEAK: In order to protect that, in Lease
21 Sale 86, we had to name a three-mile radius.

22 MR. GRAY: Right. So that's got that different
23 regime within.....

24 MR. NAPAGEAK: In order to protect that 10-mile
25 radius.

1 MR. GRAY: Right. But it wouldn't be a full 10
2 miles, is my point.

3 MR. NAPAGEAK: No.

4 MR. GRAY: Because some of that is State waters.

5 MR. LOHMAN: I think maybe it would be a good idea to
6 identify the tracts that are going to be affected.

7 MR. GRAY: Maybe the next time the map is done, we
8 could be a little more clear that we aren't really talking
9 about that whole circle for a deferral.

10 MR. COUGHLIN: Because existing deferrals are already
11 in it.

12 MR. GRAY: First of all, a lot of that is State
13 waters.

14 MR. COUGHLIN: Mm hmm (affirmative).

15 MR. GRAY: And second, some of those areas in the
16 blue are existing leases that would not be available for
17 leasing unless they are given up.

18 MR. LOHMAN: Maybe I'll ask Thomas again. Would you
19 be satisfied with language analyzed in the final EIS which is
20 consistent with the language that we negotiated on Lease Sale
21 86, which goes ahead and leases tracts, but within that half of
22 a Life Saver, that 10-mile area, in federal waters, provides
23 for a requirement of conflict avoidance agreement with local
24 users?

25 MR. NAPAGEAK: Mm hmm (affirmative).

1 MR. LOHMAN: If anybody wants to have surface entry
2 into the area. To have surface facilities.

3 MR. NAPAGEAK: Yes. I'm pretty sure that you're
4 going to have to work on the language on that one.

5 MR. LOHMAN: Okay. As close as you can come, without
6 abrogating your authority, but as close as you can come to
7 saying surface facilities are prohibited unless there is a
8 conflict avoidance agreement entered into with the local users,
9 whether it's AEWG or Nuiqsut.

10 MR. NAPAGEAK: The conflict avoidance agreement which
11 has been in existence now for a number of years, it has been
12 working with BP on the North Star development.

13 MR. BURTON REXFORD: Has been working very good.

14 MR. NAPAGEAK: I mean, we have clear communications
15 with BP on their development program. They stop their seismic
16 when we tell them to stop. They stop their ships when we ask
17 them to stop because of bowhead whale migration. I think that
18 is the best way of dealing with industry on the Beaufort Sea.
19 That conflict avoidance agreement that we have there, this guy
20 has put together for us.

21 MR. LOHMAN: And again, Thomas has to understand, and
22 he does better than I, he has a lot of folks in his community,
23 a lot of folks in his community, that want a 50-mile deferral
24 area. They don't want -- I mean, Fenton said it best. We talk
25 about these mitigating measures. None of us want to see

1 leasing offshore. I guess we swallow that and more. But he
2 has got to go back and stand in front of some folks that I
3 wouldn't want to have to stand in front of, and say, 'I sat
4 down there in a meeting in Anchorage and said it's okay to go
5 ahead and lease these tracts. Not only did I not argue for
6 your 50-mile deferral, but I'm not arguing for an outright 10-
7 mile deferral. I've got us maybe not a complete veto authority
8 somewhere down the line.' He is going to take a lot of heat.

9 MR. NAPAGEAK: Mm hmm (affirmative).

10 MR. LOHMAN: On whatever it is that industry wants to
11 accomplish. So there has to be some strong language and good
12 faith and understanding that it's not a paper agreement, that
13 there will be a conflict avoidance agreement, that there really
14 has to be a conflict avoidance agreement, because there are
15 people in that community that will take up arms if somebody
16 tries to put something five miles from Cross Island. Thomas
17 might even be leading them in the first boat.

18 MR. NAPAGEAK: No.

19 MR. ZSELECZKY: I wonder if I could respond to that a
20 little bit. Just a little clarification, and Thomas is right
21 about BP. And again I can't speak for the rest of the industry
22 about committing them to a conflict avoidance agreement. BP
23 thinks that it's a good idea. I would caution that you should
24 probably use the words, "may require a conflict avoidance
25 agreement" because what we tried to do with AEWC is meet with

1 the Whaling Captains. They may decide that they don't need a
2 conflict avoidance agreement if they can be convinced that
3 there really isn't going to be a conflict, where they are
4 minimal and they can be mitigated.

5 I think that the important thing is mandate the
6 conversation. Mandate that you will get together with them and
7 that you will work something out. Don't automatically say you
8 must have a conflict avoidance agreement, which pitches
9 everybody into this long process of negotiations, which might
10 not be necessary. The Captains still have the right to say, 'I
11 think we need one.' But I don't think we should mandate it in
12 the stipulations.

13 MR. NAPAGEAK: To quote the Whaling Captains of
14 Nuiqsut and Kaktovik, BP has been a good boy. Now without
15 mandating that, you're liable to get bad again.

16 MR. ZSELECZKY: No. Well, all that I'm saying is
17 that you have the right to tell us we have gone bad. I support
18 the idea, but I cannot speak for the rest of the industry
19 today. They are not here to answer it. But as I mentioned at
20 some point, I would sort of like to express their concerns
21 because they are a stakeholder also in this, and their view is
22 a little bit different.

23 They haven't had a chance to consider the Nuiqsut
24 deferral. They have had a chance to consider the Kaktovik
25 deferral, and they are against it. But would anybody object if

1 I went into those reasons now, or should we wait for those
2 later? I'm flexible about that.

3 MR. GOLL: I guess it would help the discussion on
4 this, but we will continue, you know, with the Cross Island and
5 try to come to a resolution on that. If nobody objects, I
6 guess Pete wanted to go into industry's view, or some
7 companies' views on deferrals and how it affects the companies.
8 Is that what you were requesting?

9 MR. ZSELECZKY: Yeah.

10 MR. GOLL: Go ahead then.

11 MR. ZSELECZKY: It's mainly a process thing. But as
12 I have mentioned before, I have talked with about a dozen and a
13 half companies. They are large and small and independents and
14 companies who are active or who were active in the past,
15 including a couple who are just becoming active. There are
16 some very common themes, and there are also some very specific
17 cautions and suggestions. As I mentioned, the vast majority
18 want Alternative 1. They want to see the proposal go ahead
19 with the whole sale. They note that it is a very small focus
20 sale, it is not an areawide sale.

21 It's a very serious business. It's not considering
22 deep water or areas far from infrastructure. So any deferrals
23 or deletions should really be given very, very close, careful
24 consideration. A common concern was creating deferral areas
25 set a very bad precedent. And I kept hearing it over and over.

1 They said, 'We mentioned this in Sale 144. There was some
2 proposed deferrals, and we said once you accept a deferral, it
3 has a tendency to show up again.' And in fact, that's what has
4 happened.

5 Here we are again with another proposed deferral for
6 the next sale. It has become a reality. Most of the companies
7 also said, 'If you don't offer an area, if you just exclude
8 it' -- and this was the comment about don't call it a deferral,
9 call it an exclusion -- 'you don't know what opportunities are
10 available, you aren't going to devote your resources, meaning
11 people and money, to studying the area to even decide whether
12 or not to even bid.'

13 And it is an obvious point, just because they study
14 doesn't mean they are going to bid. Just because it's offered
15 doesn't mean anybody is going to bid. But until it is offered,
16 no one is even going to look at it. And if it is excluded,
17 those resources are going to go somewhere else. They are going
18 to go to Columbia or the North Sea or Asia. That money is not
19 going to be spent in Alaska.

20 Another point is that the predictability is very
21 important. The five-year plan is supported by industry because
22 it gives them a planning tool. They know when something is
23 coming. They know when they will need people and money to look
24 at a sale. And this goes hand in hand with what the OCS Lands
25 Act asks for. It's exactly that: orderly, paced development,

1 and industry supports that.

2 There are also some concerns that wholesale delet
3 actually hurts MMS because without offering it, the rubber
4 never meets the road. The MMS doesn't really know what the
5 interest is until the sale, until somebody actually bids.
6 There are plenty of comments in advance of a sale, but it is a
7 competitive environment, and until there is actually a bidding
8 process, MMS doesn't know if they're interested. So if you
9 look at it from that way, what happens is you take a deferral,
10 which is close to being an exclusion, the MMS still doesn't
11 have any idea whether somebody is going to bid on it, and it is
12 going to come up again and again and again. So they are
13 actually losing critical information by not offering the
14 acreage.

15 An example given was Sale 149 in Cook Inlet. Look
16 who came to that sale. That shouldn't happen again; we should
17 get enough information to know what's going on. And if you cut
18 out areas that people want, you are never really going to know
19 what the level of interest is. And again, I guess a final
20 comment is that just by offering it doesn't necessarily mean
21 that it's going to be leased.

22 And the common thread throughout all the comments
23 was, offer the whole thing, it's a very small sale. It's
24 probably going to get a high degree of interest because it's
25 near infrastructure. You know, let's try to work it out either

1 through mitigation or working together. And the communications
2 avoidance agreement with AEWC is an example. It can be done;
3 at least consider the area, offer it for lease, and see if we
4 can meet the needs of all the stakeholders, you know, not just
5 one or two, but see if we can come to an accord for all of
6 them.

7 So that's generally what these dozen and a half
8 companies have said, and again they have considered
9 Alternatives 1, 2, and 3. They haven't had a chance to look at
10 Nuiqsut, but I suspect what they probably would say is lease
11 the area, but place restrictions on it so that we work together
12 and accommodate all of the stakeholders. In the final
13 analysis, they are supporting the proposal, which is
14 Alternative 1 or the whole sale. That's really the gist of
15 what they had to say.

16 MR. FENTON REXFORD: There are about 10 points that,
17 maybe for a summary, they are worth pointing out from the North
18 Slope Borough, as far as consensus regarding this Lease Sale
19 170. I don't know if I want to get into that right now, but
20 since the industry has offered their analysis or summary of
21 what they feel and what should go on, perhaps for the record, I
22 can run those by you.

23 This letter is from July 15th, listing out 10 points.
24 First of all, we all oppose offshore leasing.

25 MR. GRAY: Excuse me. Is that in here?

1 MR. GOLL: Yes. That is Letter No. 9.

2 MR. FENTON REXFORD: These were brought to MMS'
3 attention as our major concerns, and I want to bring this
4 forward to the committee, for the record of this committee
5 meeting.

6 Again, we are totally opposed to offshore leasing,
7 but if we need to move forward with the sale, it needs to
8 include the Kaktovik deferral mentioned in the DEIS, as well as
9 the new protections or new things that have come up from
10 Nuiqsut residents as to the Cross Island deferral area, which
11 is important to not only Kaktovik, but also to the Nuiqsut
12 people.

13 There is a letter to Governor Knowles regarding a
14 State Lease Sale 86, as an attachment. Again, use the conflict
15 avoidance agreement, which Thomas Napageak briefly touched on,
16 which he thinks is very important to work with the industry,
17 and he thinks that should continue. Any drilling associated
18 with the lease sale should be done from bottom-founded
19 structures, not drill ships, in order to lessen noise impacts
20 and to reduce chances of an oil spill.

21 This one here has to do with Traditional Knowledge
22 No. 5. Specific problems is one of our major concerns of poor
23 level of recognition for personal experiences as far as seismic
24 work that has been going on since the late '60s. We continue
25 to feel the seismic noise that occurs during fall migrating of

1 the bowhead whales that exceeds 30 to 35 miles. We have
2 experienced that at SSDC near the Canadian border. If you are
3 behind the down-flow from where the whales are coming, it could
4 be more like 50 miles that you go out.

5 We have an argument; we do not feel comfortable with
6 that work, that seismic noise impact, that 4-1/2 miles to our
7 30 to 35 miles. Again, we feel like the DEIS unfairly put
8 forward the noise impact data from the noise in the lead study
9 without mentioning the limitations on that. There should be --
10 there are quite a bit of other listings that go on here. The
11 SWEPI Study that includes findings that tend to support our
12 observation of the hunters should be included in the documents.

13 As you are all aware, from Thomas and other members,
14 that there is no practical way to deal with a major offshore
15 oil spill in the Chuckchi and the Beaufort Seas. The DEIS
16 should give full consideration to the clean-up difficulties
17 encountered during the Exxon Valdez oil spill. The DEIS should
18 also note that the Exxon Valdez oil spill occurred about 800
19 miles south of the Beaufort Sea in a much more logistically
20 friendly environment. We feel MMS continues to under-estimate
21 oil spill impacts to marine life in this DEIS.

22 The DEIS should make full reference to the large
23 amount of oil effects data, including the effects to marine
24 mammals from the Exxon Valdez spill.

25 And finally, No. 10. As pointed out many times

1 before, we feel all impact assessment type studies associated
2 with offshore exploration and development should be subject
3 to peer review. This review should involve the study design
4 and the draft final report. Such impact assessment studies
5 should be conducted as long as necessary to obtain the needed
6 data. Short-term, poorly conducted studies should not be
7 relied upon. A good example of an impact assessment area that
8 needs additional scientific data is concerned with seismic
9 noise impacts to fall migrating bowhead whales.

10 So to continue our dialogue around the table, I think
11 these are the very important points that need to be considered
12 if there is going to be anything to go forward with Lease Sale
13 170. Again, there is a resolution submitted to the State
14 regarding Lease Sale 86. Thomas just took on that. There is
15 also another letter dated January 25th; I see that it is par
16 of the record all ready. I would like this included in your
17 discussion on noise of the diversion of bowhead whales when
18 there is noise going on.

19 So we are very concerned about the whaling and the
20 activities in industry doing work during that critical time.
21 Thank you Mr. Chairman.

22 MR. GOLL: I think Ray had mentioned this morning,
23 with regard to some of the comments in the DEIS, we are
24 reviewing the comments received from the North Slope, the
25 additional comments, and the July 25th letter and are

1 addressing those. But again, one thing that we did, and
2 probably caused some problems, is when we were trying to make
3 the document smaller. We took a lot of material out and
4 referred to it, but that caused some problems that a lot of
5 information on the limitations and studies and so on that were
6 referred to but were not in the document itself. And I think
7 that caused part of the problem.

8 So again, we are trying to revisit and revise that
9 part of the EIS, and hopefully, we will come up with what you
10 were asking for here. Pat.

11 MR. SOUSA: Getting back to a question that Glenn
12 raised earlier, and that is what is the committee to do here?
13 It's not necessarily to recommend that a deferral be included
14 or not included. It's to recommend whether MMS should evaluate
15 a deferral.

16 MR. GOLL: Within the EIS.

17 MR. SOUSA: Within the EIS.

18 MR. GOLL: In order for a decision to be made later
19 down the road, something would have to be in that EIS. So if
20 there is a request to have some type of a deferral for Cross
21 Island, we would have to evaluate that in the EIS. So what we
22 are trying to get our hands around is what that should look
23 like.

24 MR. SOUSA: Would that not be part of the assessment
25 of the EIS, to try and flesh that out a little bit? And the

1 reason why I'm asking is, from a NEPA perspective, it sounds
2 like there has been a significant issue raised by a segment
3 the public. And under NEPA, I would suspect that we would have
4 to address that. It doesn't mean we have to agree to it as a
5 federal agency, but we would have to address that. So the
6 answer to me is clear: We have to address it. And ultimately
7 the MMS has to address it.

8 MR. GOLL: Yes.

9 MR. SOUSA: So is your question simply trying to
10 define the terms right now?

11 MR. GOLL: Essentially, to get close to what the
12 terms should be, of whether it's as we've been discussing, a
13 total prohibition period, or is there some of what was just
14 being discussed with regard to the conflict avoidance, and
15 maybe allowing these things but then have this, in essence, a
16 veto power over development, you know through the conflict
17 avoidance? Maybe that's putting it bluntly. I think that's
18 where we were. Does anybody else want to say anything about
19 the approach?

20 MR. GRAY: I guess I'm still a little confused.

21 MR. GOLL: Okay.

22 MR. GRAY: Is the question now to decide whether or
23 not a deferral is to be considered in the EIS process, or if
24 other mitigations could be considered instead, for instance,
25 somewhat similar to what was done in the State sale?

1 MR. GOLL: Yes. It's more of the latter, I think.
2 Under NEPA, because there were these comments, and it is a
3 reasonable alternative, we would have to evaluate some type of
4 alternative with regard to, you know, the Cross Island
5 deferral. I think, again, it has been an issue in the past.
6 We did not evaluate it for a particular reason for the draft
7 EIS, as we had mentioned earlier. The issue has been refined
8 somewhat from the comments from the North Slope Borough. So
9 under NEPA, we would have to evaluate that, I guess in our
10 view. So it's a definition, then, of what it is that we would
11 be evaluating, is the advice that we wanted from this group.
12 Does that help?

13 MR. GRAY: And the two choices that we seem to be
14 discussing are either an outright deferral, and that half of a
15 Life Saver, or some other kind of a mitigation measure, such as
16 prohibition of permanent facilities, unless there is some
17 consultation -- conflict avoidance agreement. Things like
18 that. Is that right?

19 MR. GOLL: I believe that's right.

20 MR. NAPAGEAK: I think we are talking about two
21 things here. The deferral is one issue by itself.

22 MR. GRAY: Mm hmm (affirmative).

23 MR. NAPAGEAK: On the Lease Sale 170, should it be
24 done, defer Cross Island in the lease sale. The conflict
25 avoidance agreement is between the operators who do have leases

1 around to negotiate that conflict avoidance agreement. It's a
2 separate issue. But deferral is one; conflict avoidance is
3 another.

4 MR. GOLL: But if we deferred, there wouldn't be a
5 need for the conflict avoidance, would there?

6 MR. NAPAGEAK: Right.

7 MR. GOLL: Unless I'm missing something.

8 MR. NAPAGEAK: Anything between Camden Bay and Cross
9 Island. Camden Bay is up here; it's outside of the deferral.
10 The bowhead whales migrate near shore.

11 MR. GOLL: Mm hmm (affirmative).

12 MR. NAPAGEAK: We request BP and ARCO to cease their
13 operations as of August 31st until the quota is met. Now, that
14 is outside of the deferral area, so the conflict avoidance is
15 not tied in to a 10-mile radius. It's east of Cross Island.

16 MR. FENTON REXFORD: Any activity in the offshore
17 needs a conflict avoidance.

18 MR. NAPAGEAK: Yes.

19 MR. SOUSA: Special deferral versus a mitigating
20 measure. I mean, a deferral for a very specific area,
21 mitigation measure for a much larger area.

22 MR. NAPAGEAK: Mm hmm (affirmative).

23 MR. EAGLETON: For the whole sale area?

24 MR. GRAY: No.

25 MR. NAPAGEAK: From Cross Island eastward.

1 MR. GRAY: From Cross Island to Camden.

2 MR. NAPAGEAK: When Barter Island spots the whale,
3 that's it. I mean stop then, because they are going to migrate
4 near shore, and we don't want no activities in between. So
5 that's why the conflict avoidance agreement is signed, not
6 because of this deferral.

7 MR. GOLL: Isn't that covered by Stipulation No. 5,
8 the subsistence whaling and other subsistence activities?
9 Doesn't that essentially do that, what you're describing for
10 the conflict avoidance agreement?

11 MR. NAPAGEAK: Let me see.

12 MR. GOLL: Stipulation 5, again, is what you had
13 worked out last year in Sale 144.

14 MR. NAPAGEAK: Conflict avoidance agreement. Yes.
15 It's a separate issue, ain't it?

16 MR. LOHMAN: What Thomas, I think, has just raised,
17 is the issue of considering the deferral. An outright deferral
18 or exclusion of sale is something that needs to be considered
19 in the final EIS.

20 MR. NAPAGEAK: Mm hmm (affirmative).

21 MR. LOHMAN: And a mitigating measure that would
22 require a conflict avoidance agreement everywhere east of Cross
23 Island, all the way to the Canadian border, and that it be in
24 place regardless of whether you were within 10 miles of Cross
25 Island or not.

1 MR. NAPAGEAK: Mm hmm (affirmative).

2 MR. LOHMAN: Is that what you are saying, Thomas?
3 mean, those are two separate issues.

4 MR. NAPAGEAK: I don't know how far east Kaktovik
5 would have their agreement.

6 MR. FENTON REXFORD: It's all the way to Canada.

7 MR. NAPAGEAK: But ours is Kaktovik. Once they spot
8 a whale, that's when the conflict avoidance agreement kicks
9 into action, until the quota is met. We have a quota of four
10 bowhead whales. Now, those four can be landed within two weeks
11 or three weeks at the most, if everything works out, or none,
12 if there's a lot of activity going on. I've been whaling since
13 the '70s out there, and there are years when I went home empty-
14 handed because of all of the activities. Last year, because
15 things were working so perfect, I landed two of my own bowhe.
16 in seven days.

17 MR. GRAY: So, John, if I understand your point is --
18 maybe a question. Does Stipulation 5 -- what does a conflict
19 avoidance agreement give you in addition to Stipulation No. 5?
20 Because as I read Stipulation No. 5, that pretty much puts MMS
21 in a position where they have to convene some kind of conflict
22 resolution meeting. If the consultation between the company
23 and the local people does not work, MMS pretty much has to
24 convene some type of group to resolve the conflict. Is that
25 right?

1 MR. GOLL: Yes.

2 MR. GRAY: And in my mind, I'm not sure what more the
3 conflict avoidance agreement gets you.

4 MR. NAPAGEAK: The signatories between Nuiqsut,
5 Kaktovik and BP, if there is any disagreement on the conflict
6 avoidance agreement, they get together. I mean they don't go
7 out looking for the President of the United States. They meet
8 together and try and iron out their problems. We have never
9 gone outside of our organization yet, in all of the years that
10 we have been working under the conflict avoidance agreement.

11 MR. EMERSON: I think that's the same intent. You
12 have the traditional knowledge in your conflict resolution.

13 MR. GRAY: And Stipulation 5 is for the whole sale
14 area, isn't it? It's not just for a small part of it?

15 MR. NAPAGEAK: It's for the whole thing.

16 MR. GOLL: That's correct.

17 MR. ZSELECZKY: It sounds to me that what we want is
18 a reaffirmation of whether or not the stipulation is right for
19 the whole sale.

20 MR. GRAY: Right.

21 MR. ZSELECZKY: And then a separate issue, as Thomas
22 mentioned, is do we want the deferral of Nuiqsut entirely, or
23 are we willing to consider leasing, but in the mitigation
24 measures include the conflict avoidance agreement?

25 MR. GRAY: Mm hmmm (affirmative).

1 MR. ZSELECZKY: So it is two issues.

2 MR. GOLL: Which one do we want to deal with first
3 Go back to Stipulation 5?

4 MR. GRAY: I'd start there. I would be interested in
5 what we don't get at in Stipulation 5.

6 MR. GOLL: Yeah.

7 MR. GRAY: That the conflict avoidance agreement
8 gives you. I mean, what's missing in Stipulation 5, I'd like
9 to know?

10 MR. NAPAGEAK: Would you paraphrase that again?

11 MR. GRAY: The question I have is, I don't understand
12 it. That's why I was asking it. But in Stipulation 5, there
13 is a provision to resolve conflicts.

14 MR. NAPAGEAK: Mm hmm (affirmative).

15 MR. GRAY: So to me, I don't understand what you
16 would get by having a conflict avoidance agreement, what that
17 would give you more than what you all ready have in
18 Stipulation 5. I'm not familiar with the conflict avoidance
19 agreements process, I guess.

20 MR. BURTON REXFORD: You are looking at the EIS?

21 MR. GRAY: Yes. Page 2-5.

22 MR. BURTON REXFORD: Okay.

23 MR. GOLL: Also, the stipulation is also within the
24 books. It might be easier to see page 2-5 of the EIS.

25 MR. BURTON REXFORD: Mm hmm (affirmative).

1 MR. NAPAGEAK: The conflict avoidance agreement is
2 between the whalers and the industry, who operates within that
3 area. Who has the lease? Like Mr. Majors over here. Mark
4 Majors is with ARCO. And this afternoon he signed an agreement
5 to relocate Sid to its proposed location in Camden Bay within a
6 period of time. If he exceeds that, he's liable for a pow wow
7 with me. I mean the conflict avoidance is just between the
8 whalers and the operators, or the person with the lease.

9 MR. GOLL: Then we have Stipulation 5, which is
10 essentially saying, 'Industry, if you are going to operate
11 during the whale migration, we want you to work with the
12 Whaling Captains and others.'

13 MR. NAPAGEAK: Mm hmm (affirmative).

14 MR. GOLL: Well, in a sense, then, maybe the term is
15 then to come up with a conflict avoidance agreement.

16 MR. NAPAGEAK: Mm hmm (affirmative).

17 MR. GOLL: In a sense, we don't care what it's
18 called, we, MMS, the government, but we want to make sure that
19 it's done and you feel satisfied, and the companies that have
20 worked out this agreement. You happen to be calling it the
21 conflict avoidance agreement, it sounds like.

22 MR. NAPAGEAK: Mm hmm (affirmative).

23 MR. ZSELECZKY: It seems to me that Stipulation 5, as
24 written, creates the environment that we were talking about,
25 what Tom and I were talking about. It may be required. In

1 most cases where there is significant activity, it will be
2 required. But not necessary also, it requires us to work w
3 the whalers and work something out.

4 MR. NAPAGEAK: Right.

5 MR. ZSELECZKY: And they may say, 'Well, that's a
6 minimum piece of activity, and we don't think you need a full-
7 blown agreement.' They may say, 'We're not sure what effect
8 this is going to have, so we need an agreement.' But I think
9 Stipulation 5 allows that to happen.

10 MR. NAPAGEAK: John, mind if I call for a brief
11 recess?

12 MR. GOLL: Yes. I think that it's about time anyway
13 because we've been going for an hour and a half.

14 MR. NAPAGEAK: I would like to see this get
15 straightened out.

16 MR. GOLL: Thank you.

17 (Off record at 2:45 p.m.)

18 (On record at 3:05 p.m.)

19 MR. GOLL: Mark Major is here from ARCO. Would you
20 please introduce yourself?

21 MR. MAJOR: My name is Mark Major. My job is
22 Exploration Permits Director. I'm working on the Warthog
23 project. In case you haven't heard, that's the well we plan to
24 drill this summer.

25 MR. SOUSA: Where did the name come from?

1 MR. MAJOR: The name came from an airplane. The
2 names of the wells that we have been drilling over the past few
3 years, the exploration wells, you remember Stinson, that was
4 the name of a airplane. For those that have never seen one,
5 warthogs are actually pretty ugly.

6 MR. GOLL: When we last left, there was a request for
7 a caucus, I guess. We were discussing, again, the Cross Island
8 approach.

9 MR. FENTON REXFORD: Yes. There was a question as
10 far as the conflict avoidance agreement being separate from a
11 deferral area. It should be any industry activity anywhere
12 occurring on the offshore areas should be in accordance with
13 the conflict avoidance agreement. So maybe Thomas could
14 explain in clearer words that these are two separate things,
15 deferral.

16 MR. FOLEY: But does Stipulation No. 5, as proposed,
17 or Mitigation No. 5, does that not satisfy your concern?

18 MR. FENTON REXFORD: As far as deferral.

19 MR. LOHMAN: Let's talk Stipulation No. 5 first.

20 MR. FENTON REXFORD: Right.

21 MR. LOHMAN: I think there was general concurrence in
22 our little caucus just now that Stipulation 5 accomplishes all
23 of what the traditional conflict avoidance agreement process
24 accomplishes. And by traditional, as we have been going on,
25 basically, it has been this informal, let's all get together.

1 And BP has been very willing to sit down and on their own;
2 there is no requirement anywhere, that I know of, for a
3 conflict avoidance agreement. It is something that BP and
4 industry, largely through Burton's effort, I believe, when
5 Burton was Chairman of the AEWC, put together, and it has
6 worked to everyone's advantage, as Thomas described earlier.

7 And in going through Stipulation No. 5, I think the
8 three folks from the Slope, I hope, agree that it gets at the
9 same objective as the conflict avoidance agreement. The
10 requirement that the operator come and talk to the folks on
11 exploration or development. If there is no agreement, they
12 then come to the Regional Supervisor of Field Operations at
13 MMS. There is a requirement that he can call a meeting
14 involving others than the users, NMFS and so on. We are happy
15 with that. Again, it's not the veto authority. The final
16 decision still rests with the Regional Supervisor to make the
17 final decision.

18 So I think the answer is perhaps, yes, the
19 Stipulation No. 5 satisfies whatever numbered point Fenton just
20 raised. Activity shall be conducted within the conflict
21 avoidance agreement. John was correct earlier, we don't care
22 what we call it. Stipulation No. 5 is probably misnamed, and I
23 think that we can probably get a better name for it. It is now
24 called subsistence whaling and other subsistence activities.
25 But it really is the dispute resolution mechanism, and perhaps

1 that can be added to the title somehow to reflect that that's
2 really why we negotiated those provisions on Sale 144, to get
3 at essentially the conflict avoidance agreement type situation
4 that, at that point, had been in place for a number of years in
5 our working with BP.

6 Let me pause for a second and see if any of the three
7 folks feel that I've misstated what we just discussed
8 downstairs. That Stipulation No. 5 is a conflict avoidance
9 agreement mechanism and a dispute resolution mechanism that
10 satisfies the request in the Borough's letter in the numbered
11 point, whatever it was. And that applies throughout the sale
12 area. Without anything else, it would apply within the 10
13 miles to wherever we are drawing the line to the east within
14 the 10 miles. And this is the separate issue of deferral.

15 And I guess I'll really be candid. We discussed
16 outside the issue of the Barrow deferral which was added to a
17 recent Beaufort Sea sale, and the Kaktovik deferral, which was
18 given for the first time in Sale 144. How are those different
19 than requesting a Nuiqsut deferral or a Cross Island deferral?
20 And I think the reason is essentially grounded -- it's two
21 areas. First, economics, that it's set where she wants to be.
22 It's near the infrastructure onshore, so the industry interest
23 and the oil potential is probably highest on this side of the
24 Beaufort. Second, there were biological reasons related to the
25 well-being of the bowhead whale next to the industry

1 activities.

2 There are three components; you have whale, whaler
3 and industry. Conflict avoidance resolution in Stipulation 5
4 gets at whalers and industry. It doesn't get at industry and
5 whales. The deferral of the Barrow area, the Barrow departure
6 area, including the spring lease system and the Kaktovik
7 bowhead feeding area to the east of the island, and now perhaps
8 extended a little bit west of the island, are getting at trying
9 to protect the whales themselves when they are doing something
10 or when they are particularly vulnerable from the effects of
11 industry -- noise and oil spills.

12 I'm not sure that there are the same biological
13 components to their request for a deferral area in the central
14 Beaufort around Cross Island. I'm not sure -- and I might get
15 my head handed to me -- I'm not sure that we can make the case
16 that there is some biological imperative that requires us to
17 delete the area around Cross Island, but it still is the most
18 critical area to the community of Nuiqsut.

19 And I played the role of you, John, outside, and I
20 was told that I didn't do it very well. But if I were you, I
21 would ask Thomas -- you were saying that Stipulation 5,
22 conflict avoidance/dispute resolution, works for you 11 miles
23 from Cross Island. Do you think you can sit down with Mark
24 Major, wherever Mark went?

25 MR. NAPAGEAK: He left.

1 MR. LOHMAN: Smart man. And convince or -- I guess
2 I'll leave it with convince him of the errors of his ways? And
3 we can work with industry and make things happen 11 miles from
4 the island. Or, if not, we are satisfied coming to you and
5 having you make a decision after hearing all of our concerns.
6 Why, then, would we not be satisfied nine miles from the
7 island? That's the kind of analysis I think that you are going
8 to have to go through in the EIS.

9 And I think probably the resolution of that seemingly
10 inconsistent position is -- has a lot to do with who you are
11 and, you know, who other folks that have been in that seat are.
12 We are confident, we have faith in our short time dealing with
13 you and some of the other folks sitting around the room, that
14 we can get a reasonable resolution of that conflict out of you.
15 We don't know who's going to follow you in five years, six
16 years, seven years. We have had some less successful
17 relationships with people who have sat in the chair before you.

18 And I don't think people like Thomas and Burton -- I
19 only go back 10 years; they go back a few times that many
20 years. I don't think that they have a lot of confidence in the
21 dispute resolution capabilities of some of the folks that have
22 been in that chair before you. And based on that relationship,
23 they are much more comfortable saying a deferral is
24 appropriate. We don't want to have to fight with MMS. We
25 don't want to have to go to court. We don't want to have to

1 appeal to the Coastal Policy Council and so on.

2 If industry can't give us 10 miles, it would be
3 disturbing and surprising to us. In that large of a sale area,
4 half of a Life Saver is -- you know, considering the importance
5 of that area to the community and the culture, is not too much
6 to ask. And it's being pretty candid saying it has to do with
7 individuals and political wills from D.C. or whatever, but it's
8 just a comfort level -- well, it's more than that.

9 It's -- again, if you spend any time in the
10 community, you'll understand how much of a fight Thomas will be
11 up against if he goes back to that community and says, 'I gave
12 away 50 miles, and now I'm giving away 10.' Because we have
13 faith with the guys sitting in the seats right now. Some of
14 the folks are from the same generation as Thomas, and they sat
15 and talked with folks that they didn't have a good relations.
16 with. And so they are fearful of that again.

17 MR. GOLL: Any further discussions or observations?
18 Thomas.

19 MR. NAPAGEAK: Deferral and Stipulation No. 5. You
20 know, I believe that Stipulation No. 5 covers pretty well
21 outside of the deferral area. Simply for the fact that we need
22 to control development during the migration of the bowhead
23 whale. Without any agreement, the industry just operates and
24 operates and operates on the Slope. I mean, I'm from Nuiqsut,
25 the closest community in the state of Alaska to Prudhoe, and I

1 know what goes on at Endicott, all that activity within the
2 area.

3 The 10-mile radius, I'm pretty sure, is a separate
4 issue by itself, and it needs to be deferred from the Lease
5 Sale 170. However, the conflict avoidance agreement needs to
6 also be in place, outside of the deferral area, because the
7 conflict avoidance agreement is also signed by Kaktovik, who
8 will be outside of the Cross Island deferral.

9 MR. GOLL: The question again: That can be handled
10 through Stipulation 5?

11 MR. NAPAGEAK: Stipulation 5 and deferral.
12 Stipulation 5 is perfect, as far as I'm concerned, but it does
13 not cover the deferral area. It should be outside of the
14 deferral area. Deferral area is no sale. I mean, that's what
15 we are requesting for, no sale. But what's being sold out
16 there, we want the conflict avoidance agreement to be in place.
17 You get what I mean?

18 MR. LOHMAN: In the conflict avoidance agreement,
19 Thomas.

20 MR. NAPAGEAK: Mm hmm (affirmative).

21 MR. LOHMAN: Is covered by Stipulation 5. That
22 requires you to sit down with Mark or.....

23 MR. NAPAGEAK: Well, that's just the fact, when you
24 consider it, they keep falling back to this whole area.

25 MR. LOHMAN: Outside of the deferral area.

1 MR. NAPAGEAK: Outside of the deferral area.

2 MR. LOHMAN: But outside of the deferral area, you
3 desire to have a conflict avoidance agreement requirement,
4 using that label, is satisfied by Stipulation No. 5.

5 MR. NAPAGEAK: Mm hmm (affirmative).

6 MR. LOHMAN: Requires that you sit down with
7 industry. They produce, as an attachment to their plan, a
8 report on your discussions, and then you have the opportunity
9 then to appeal any conflict that remain to the Regional
10 Supervisor. That is essentially what a conflict avoidance
11 agreement is. You said outside that, you would rather deal
12 with Mark than deal with someone from the agency. This allows
13 you -- or requires that you do deal with Mark or someone else
14 from the industry first and try to work out your concerns. If
15 you don't under Stipulation No. 5, it requires you -- or allows
16 you to request a meeting with the Regional Supervisor and other
17 affected parties.

18 MR. NAPAGEAK: Right.

19 MR. GOLL: Stipulation 5 tells Mark he must first
20 deal with you to come up with an agreement.

21 MR. NAPAGEAK: Mm hmm (affirmative).

22 MR. GOLL: And if that doesn't work, then you come to
23 us, you know, to try to resolve the issue. So it does result
24 in what I think you are asking for.

25 MR. LOHMAN: Essentially it does that. Thomas, what

1 do you think? Deferral and Stipulation 5?

2 MR. NAPAGEAK: What do you think, Fenton?

3 MR. FENTON REXFORD: Stipulation 5, I know for sure,
4 is -- after hearing from Thomas, that it is working really
5 well. Deferral -- Kaktovik residents wanted the Kaktovik
6 deferral. I know that it's up to the residents and people of
7 Nuiqsut for deferral. I will be backing up the Nuiqsut
8 residents on their deferral request.

9 Again, first, we oppose offshore leasing. That is
10 our first and foremost, but if there is going to be a sale,
11 then the Kaktovik deferral needs to be included, as well as the
12 protection of Cross Island, which is important to the Nuiqsut
13 people and the whale migrating route. And do not set aside
14 lands that we use as important pieces of real estate, that we
15 have been using for as long as man has been living up on the
16 North Slope. We just need to protect that one area.

17 I've also heard the Colville River Delta, but it
18 doesn't quite go over that far and is being deferred as well.
19 That's another subject that we might want to just briefly check
20 on the western end of the lease sale tract, not only for the
21 people of Nuiqsut as far as Cross Island is important, but it's
22 a historic site. There was a boat found there that was sent to
23 the transportation museum, where ARCO found a boat there. But
24 before the schooners and whalers came around, it was used quite
25 extensively, and we need to protect that real estate from any

1 development around the vicinity.

2 That's what the residents of Nuiqsut want, and we'
3 certainly back them up because we feel it is very important,
4 too, for Kaktovik to have a deferral.

5 MR. GOLL: Any other comments or questions on this
6 area that Fenton was talking about?

7 MR. SOUSA: Sounded like a proposal, or at least an
8 answer to your question of the definition of what it is that
9 this committee might recommend to be considered in the EIS. I
10 think that is where you were going before we took the break
11 this afternoon.

12 MR. GOLL: Yes. Yeah. Again, just to be, you know,
13 clear with everybody, it does not mean that's the decision
14 absolutely. Right now we are looking at what will be evaluated
15 in the EIS. A decision of whether that would be accepted or
16 not would still be a later decision that would come, you know,
17 this fall.

18 MR. ZSELECZKY: Just to reiterate again, representing
19 industry, they have not had a chance to look at a proposed
20 Nuiqsut deferral, but they would like to go on record that they
21 oppose any deferrals.

22 Just a comment from me is that if, in fact, there is
23 a Nuiqsut deferral within the 10-mile area, we talked earlier
24 about existing leases within that 10-mile circle. It places an
25 unusual burden on those existing lessees, some of which aren't

1 here to talk about it or express their concerns or defend
2 themselves. So I think that's really just a comment for the
3 record.....

4 MR. GOLL: Mm hmm (affirmative).

5 MR. ZSELECZKY:that they aren't here to
6 interject.

7 MR. GRAY: Wouldn't this only cover future leases,
8 not existing leases?

9 MR. ZSELECZKY: It would, but essentially, what
10 you're saying is that the village of Nuiqsut wants no activity
11 within this 10-mile circle, but there are leases within the 10-
12 mile circle already. And that raises a question of, What is
13 their status?

14 MR. COUGHLIN: Not to mention that if one of the
15 purposes of this lease sale falling on top of the previous one
16 is to allow people to consolidate positions because they now
17 believe that maybe a prospect is a larger area, that would make
18 it impossible to do.

19 MR. GOLL: Let me ask one question; I did ask it
20 earlier. Most of those existing leases are within the Barrier
21 Islands. Do the whales -- do you hunt within the Barrier
22 Islands, or again, are you primarily concerned about the area
23 outside the Barrier Islands?

24 MR. NAPAGEAK: Both sides. Both sides are good
25 migration route. If the Arctic ice pack is hugging the

1 islands, there's bowheads that migrate through, inside the
2 Barrier Islands.

3 MR. SOUSA: For the leases that are already in place
4 there, I presume there's a Stip 5 that applies to those as
5 well?

6 MR. GOLL: Not necessarily.

7 MR. ZSELECZKY: No. They were from 144.

8 MR. SOUSA: They were from Sale 144?

9 MR. ZSELECZKY: Some were from Sale 144, and that
10 would be correct.

11 MR. SOUSA: In that case.....

12 MR. ZSELECZKY: But some were not.

13 MR. FOLEY: But it seems to me, I mean, the reality
14 is legally, a Stip 5 might not apply -- it would not apply to
15 those existing leases. But to the extent you need a
16 consistency determination or some other permanent authorization
17 to move forward, I think the industry is on notice that you'd
18 better go read the Sale 144 Stip 5 'cause that's what you
19 should expect.

20 Let me talk about something else here for a minute.
21 I tried this unsuccessfully once before, and I want to take
22 another crack at it.

23 It seems to me that there are some alternatives in
24 between an absolute deferral and merely relying upon a
25 Stipulation 5. If leases are not offered, then the possibility

1 exists that the federal government and all of us taxpayers and
2 U.S. citizens will forego economic opportunity. And it could
3 be that a prospect could be developed and drained without ever
4 touching the surface and with no surface entry within these,
5 quote, "deferral areas."

6 And I don't think -- I don't mean to put words in
7 people's mouths -- but it's my guess that people are not trying
8 to flat stop development within these areas; what they're
9 trying to do is avoid impact to the whales within these areas.
10 And if the development could take place that didn't have a
11 negative impact on the whale, then that shouldn't be prevented.

12 I'm kind of rambling here, but the point of all this
13 is -- let me talk maybe about the Kaktovik deferral. You know,
14 the area between the Kaktovik deferral and the ANWR is a ribbon
15 of State lands, some of which are leased, some -- all of which
16 has the opportunity in the future to be leased. And it could
17 be that an accumulation is discovered in the future, some of
18 which is in the State waters, some of which is in the federal
19 waters, but all of which could be efficiently drained without
20 ever having surface access to the federal side.

21 But yet those leases should be made available to be
22 purchased and to be developed. I mean, I guess what I'm really
23 saying is maybe -- and I'm not advocating this, but maybe
24 another solution is just a prohibition against surface entry on
25 some ribbon. I don't know what its width would be, but the

1 most southern portion of the proposed Kaktovik deferral area
2 could still be offered, but with prohibitions on surface en'

3 MR. GOLL: The southern area being what, within the
4 Barrier Islands?

5 MR. FOLEY: No, see, the Barrier Islands, three miles
6 out of the Barrier Islands is still State water. So, I mean,
7 by definition, the federal doesn't even begin until three miles
8 out from the Barrier Islands.

9 MR. GRAY: So you're saying that the surface entry
10 would be within State waters?

11 MR. FOLEY: No, no, no, no, no. All we're talking
12 about is federal. Right? Oh, I'm sorry. Surface entry would
13 be limited to State waters.

14 MR. GRAY: So that's how you would get at the oil,
15 though; right?

16 MR. FOLEY: That's a possibility.

17 MR. GRAY: I guess I don't understand where the
18 deferral is. I thought it was only a prohibition of surface
19 entry; it didn't necessarily mean you couldn't get the oil.

20 MR. FOLEY: They're flat not offered for lease.

21 MR. COUGHLIN: There's no leasing at all.

22 MR. GRAY: No leasing at all.

23 MR. GOLL: If there's no leasing, there's no getting
24 the oil. Well, there could be the situation if something next
25 to it was leased, let's say by the State, and one could, you

1 know, get the federal oil, and we'd have to negotiate to try to
2 get our royalty out of that.

3 MR. GRAY: Mm hmm (affirmative). Mm hmm
4 (affirmative).

5 MR. SOUSA: How about if it was an adjacent federal
6 block? What would the situation be then?

7 MR. GOLL: If it -- I guess technically, if it's not
8 leased, it's not supposed to be produced, but I don't know what
9 would happen in that kind of a situation. If, again, it just
10 happened, I don't know.

11 MR. FOLEY: Well, if it's not leased, you could not
12 drill a well on it. I know that for certain.

13 MR. GOLL: You could not drill a well, that's
14 definitely right.

15 MR. FOLEY: Now, there are drainage situations where
16 one lease is draining another, and that land might be federal
17 and it might not be leased, and there are provisions for
18 compensatory royalties, settlements to be -- but that's not the
19 right way to go.

20 MR. ZSELECZKY: Well, that suggests also that's not
21 in the interest of anybody here because in the HE area, which
22 is essentially the next three-mile ribbon, there's a sharing
23 with the State of revenues, and if you end up in court with
24 that, nobody's benefitting. The money isn't going anywhere;
25 it's not being used for a good public purpose. It just doesn't

1 help anybody.

2 I guess my objection to the just outright exclusio
3 of acreage is it doesn't give us a chance to try to work it
4 out. And I'll step back and just speak for BP for this second
5 and not industry, but practically speaking, we realize we can't
6 explore or develop without making the Whaling Captains happy.
7 It isn't going to happen anyway, even if you have the right,
8 and all we're asking is the right to talk it out with them.
9 And we may get to the point where it's -- they're not happy and
10 we can't do anything. But without the opportunity, it doesn't
11 matter.

12 So I guess our position is it doesn't help the
13 stakeholders just to deny access completely.

14 MR. SOUSA: But hasn't that opportunity been offered
15 a number of times in the past?

16 MR. ZSELECZKY: It has, but technology is advancing
17 by leaps and bounds. What -- someone brought up causeways
18 earlier today. Fifteen years ago, we might have said, 'We
19 can't develop something without a causeway,' whereas today, we
20 can say extended-reach drilling has really opened up some
21 opportunities.

22 These are 10-year leases. You know, we're concerned
23 you may put something in place now that, 10 years from now,
24 isn't even relevant any more, but it denies everybody the
25 opportunity for some income and enjoyment of the benefits. So

1 I think the fact that it was leased before is relevant, but it
2 changes so quickly.

3 MR. SOUSA: You asked the question earlier today
4 about maybe the definition of what "deferral" means, and that's
5 come up a few times. And I'm certainly no expert in this
6 arena, but in my way of thinking, we're deferring it -- if
7 indeed we went for a Cross Island deferral here, or a Kaktovik
8 deferral or whatever -- that it's deferred from this sale. If
9 10 years from now, 20 years from now, 30 years from now -- I
10 mean, the oil industry is not a short-term industry. You know,
11 you're looking -- you know, it's not just what you're going to
12 do this year, and these leases obviously are not going to be
13 developed in the next two years.

14 You're going to be bidding on leases that you may
15 develop with technology that doesn't exist yet.

16 MR. ZSELECZKY: Provided it's.....

17 MR. SOUSA: 'Cause you're going to be that much in
18 the future.

19 MR. ZSELECZKY: Provided it's offered again. My
20 point this morning was.....

21 MR. SOUSA: Right, and I guess that was my question.
22 I look at a deferral as saying that applies to this sale. Now,
23 I can sympathize with the feeling that, you know, deferrals
24 tend to be -- could easily be perceived as becoming permanent
25 forever and ever. But if you had the technology, you had --

1 you know, 20 years from now, the world changes and the industry
2 can come in and make a very strong case, to the satisfaction
3 the people -- of the interested parties that fought for that
4 deferral, I don't know of anything within MMS leasing regs that
5 says once a deferral is in place, that it's always in place.

6 MR. ZSELECZKY: No, I agree with that, but I would
7 add to that, that if you exclude something from the sale, we
8 won't study it, so we won't come back to you and say, 'Guess
9 what? We've looked at it, and now we can develop this,'
10 because we won't even look at it.

11 MR. SOUSA: But you're getting -- I mean, this little
12 half of a Life Saver, you're conceivably going to be looking
13 around that. I would think you'd have enough info to say,
14 'Yeah, well, we do want to go back and make a case.'

15 MR. ZSELECZKY: I think we would probably spend ou.
16 money on the areas where we have leases first. And money being
17 what it is, I would really doubt we'd spend a lot on areas
18 that, you know, were not allowed to be leased once before,
19 without any certainty, at least, that they'd be leased again at
20 a certain period of time -- in a certain period of time.

21 MR. GOLL: Maybe this is the time to try to come to
22 some conclusion on this.

23 MR. ZSELECZKY: Okay.

24 MR. FENTON REXFORD: Yeah, before you do that, I just
25 want to look at this table here, how cluttered it is, and I

1 want to take Cross Island out. You know, this is what it's
2 going to look like as far as platforms and development that's
3 going to happen around this area, from the Canadian border over
4 to Barrow. And what I want to protect, and I'm going to stand
5 firm with this, I don't want to be in the table here and vote
6 out our subsistence lifestyle.

7 I want to protect a piece of real estate, which is
8 Cross Island. Ten miles -- we asked for 50, well, we get down
9 to 10, and that's what I want to keep for the residents of
10 Nuiqsut. And, you know, when all the other stuff, the mess
11 that's going to be around here, I'd like to have my little real
12 estate right and not be messed up or goofed up or have oil
13 spills or -- have it protected. That's -- I think the bottom
14 line is that right there.

15 Just if we're going to go with a lease sale, let's
16 think about the deferrals. I think that's my bottom line right
17 here. I've asked this morning for Alternative 2, no lease
18 sale. I'm sure that won't go very far at this table. But if
19 we're going to go, you know, the lease sale's all the way from
20 Canada to Barrow, and if we don't protect a piece of area for
21 our sake, for our children's sake, you know, that's -- I don't
22 want to be in the position to vote us out, or vote me out, of
23 subsistence lifestyle. So I want to have an area where I want
24 to hunt bowhead year after year.

25 So what's a little, either half of a Life Saver or

1 deferral? Maybe that might be revisited if the technology
2 comes 10 or 15 years from now. So I know there's going to
3 no -- I don't think we'll go very far with Alternative 2, so I
4 know we're not going to go for a full lease sale either without
5 the deferrals. So I think we're to the alternative with the
6 deferrals. So we just need to work those out, hammer those
7 out. I think that's all.

8 Just looking at the cluttered table here, I'd like to
9 have it protected. It could be forever and ever; I'd like to,
10 but I -- with the deferrals, I'm hearing that it could be
11 revisited. So thank you.

12 MR. GOLL: This is the time to wrap it up. I guess
13 what I'm sensing is there's not a consensus at the table, or is
14 there a consensus at the table?

15 MR. EAGLETON: Looking for a consensus to put the
16 deferral into the final EIS?

17 MR. GOLL: Well, and the description of it, I guess
18 what the proposal, again, from Nuiqsut would be to keep the 10
19 miles.

20 MR. SOUSA: Again, the consensus that you're looking
21 for is only whether it should be.....

22 MR. GOLL: For evaluation in the EIS.

23 MR. SOUSA:evaluated in the final EIS.

24 MR. GOLL: Correct. It's not the final decision.

25 MR. SOUSA: Not a decision.

1 MR. BURTON REXFORD: Then you come back with the
2 Nuiqsut proposal and it's denied in the EIS, you're right back
3 where you started from. You're going to have to face all the
4 whalers on the Slope. They probably won't even talk to you. I
5 know, coming from Barrow, they don't want to talk to you. They
6 don't want to talk to MMS. They don't want to talk to
7 government agencies. And if this is not -- and this is their
8 request: You'd better do something with it.

9 That's through the North Slope Borough; right,
10 Thomas?

11 MR. NAPAGEAK: Mm hmm (affirmative).

12 MR. BURTON REXFORD: You either live up to it or
13 never go back to the Slope.

14 MR. GOLL: Okay. This is what I would propose that
15 we would be doing as an agency, would be evaluating, again,
16 within the EIS, the alternatives. Now, if there's any other
17 alternatives that -- with regard to this that anyone would want
18 to raise, that's.....

19 MR. FENTON REXFORD: When you're talking that, is
20 that -- you're just specifically all the alternatives that is
21 existing now?

22 MR. GOLL: For -- you know, for this Cross Island.

23 MR. FENTON REXFORD: Okay.

24 MR. GOLL: That we would -- you know, we would be
25 evaluating this.....

1 MR. FENTON REXFORD: Yeah. Okay.

2 MR. GOLL:within the EIS.

3 MR. GRAY: I guess I'm confused on what you're asking
4 us. Sounds like the bottom line is that you have to evaluate
5 it in the EIS because it's a significant issue? Then I don't
6 know what the question is to the group?

7 MR. GOLL: Well, the question to the group was what
8 we were, again, trying to define was what we would be
9 evaluating. And again, what I heard -- and maybe you could
10 paraphrase it -- from, again, the communities on the North
11 Slope and Nuiqsut is what they would like evaluated within the
12 EIS would be the 10-mile radius. Now, there wasn't, I guess,
13 since full agreement around the table, that that's -- well, I
14 don't know.

15 Was there agreement around the table that that sho. .
16 be evaluated?

17 MR. ZSELECZKY: Well, I think.....

18 MR. GOLL: Unless others have another something else
19 that should also be evaluated as an example.

20 MR. ZSELECZKY: I would add that we have no problem
21 evaluating that proposal as long as the proposal to lease and
22 talk it out is also evaluated.

23 MR. GOLL: Okay. We can, in any EIS, evaluate both
24 sides, but.....

25 MR. GRAY: Wasn't that Alternative 1?

1 MR. BURTON REXFORD: Yeah, don't touch Nuiqsut, Cross
2 Island. There's no point in talking with us.

3 MR. EAGLETON: Is there only three alternatives, and
4 there's 1 is no lease, 2 is the deferral leasing system, and 3
5 is the whole area is open?

6 MR. GOLL: Well, no.

7 MR. EAGLETON: Is that the way I'm getting that?

8 MR. GOLL: What we would be doing here is including
9 an exclusion or a deferral for roughly this area that's here.
10 You know, we would have to define it.....

11 MR. EAGLETON: Right, but that would be.....

12 MR. GOLL:on the map of where it is, but.....

13 MR. EAGLETON: That'd also be included with the
14 Kaktovik -- that'd be included in at least the Kaktovik
15 deferral alternative.

16 MR. GOLL: But it would be a separate decision of
17 whether to -- in the end, whether to do that or not. Now,
18 again, we would evaluate it within the EIS, is what we're
19 looking at here. There will still have to be a decision of
20 what the sale, in the end, is going to look like. That's not
21 for this meeting right now; you know, that's for -- those
22 decisions would be coming in the fall.

23 MR. BURTON REXFORD: October?

24 MR. GOLL: Roughly. And that's what we'd have to,
25 you know, figure out, of the timing. Correct. So in a sense,

1 what one ends up, in the end of a sale, often, is a selection
2 of deferrals, and which to accept or not accept. So it can
3 a combination.

4 MR. EAGLETON: Okay.

5 MR. FOLEY: And is it possible that you could come up
6 with, the final EIS is issued, and there are four basic
7 alternatives, but what the MMS chooses is Option No. 5, which
8 says there's some kind of a Kaktovik deferral, but it doesn't
9 look exactly like this? Is that a possibility?

10 MR. GOLL: It depends on how far away from that it
11 would be. It's got to be real close, otherwise, the answer
12 would be no, we couldn't.

13 MR. FOLEY: Okay.

14 MR. GOLL: So if there is another option that people
15 would want evaluated, for example, the State option, one cou.
16 also evaluate that. It's just, I'll say, you know, more
17 evaluation that we would have to do within the EIS.

18 MR. COUGHLIN: But unless it's listed as an option,
19 then it can't be an option. Is that what you're, in essence,
20 saying?

21 MR. GOLL: Well, no, what we're looking at right now
22 is what those options should be. What I'm saying is, when
23 somebody is making the decision in the end, they can only
24 select from the options that are within the final EIS.

25 MR. COUGHLIN: But what I'm having trouble

1 understanding, and I think everybody around this table is
2 having trouble understanding, is, is if this request was made,
3 in other words, if the 10-mile, I'll call it, deferral is made,
4 or exclusion is made, do you have to evaluate it, or do you
5 need a recommendation? Or are you required? If we didn't have
6 this group, would you be required to evaluate this request?

7 MR. GOLL: I would say the answer to that would
8 likely be yes, we would have to evaluate it.

9 MR. COUGHLIN: So I don't know why you need a
10 recommendation from us to evaluate it.

11 MR. GOLL: It's the definition of, again, the wording
12 we received from the North Slope, as we were reading it, it
13 wasn't -- it was a little ambiguous. In a sense, you know,
14 it's the discussion we've been going through here of what -- as
15 Tom was saying, there are different parts to it. The
16 recommendation was to follow what came out from the State. I
17 mean, that's -- that was one interpretation of what we received
18 from the North Slope Borough.

19 MR. COUGHLIN: Well, I think that that's up for them
20 to decide. If you have to evaluate what they request, then --
21 and if they -- whatever -- however they want to define the
22 request, then I think you're obligated to do that and let
23 them -- and let it be evaluated.

24 But if you're saying that that's the only thing that
25 you can evaluate, then maybe we ought to.....

1 MR. GOLL: No.

2 MR. COUGHLIN:then we ought to -- well, if
3 that's the only option that's available for this area, then I
4 think, you know, maybe others would like the opportunity to
5 submit alternative proposals for that. For example, the State
6 may ask -- and this -- you know, this is the first notice
7 that -- and as Pete would say, I think from the State's
8 perspective, you know, we really haven't had an opportunity to
9 evaluate it either. And we may want to make a request that you
10 evaluate something else.

11 And I guess if we requested it, then if you're
12 required to evaluate that, then you'd be required to evaluate
13 the State's request, I suppose.

14 MR. GRAY: Except the comment deadline is over, is
15 the only trouble there.

16 MR. COUGHLIN: Yeah, but then it's a problem because
17 you're now defining -- you're saying you're going to -- and
18 this is the problem Pete has. You're going to put in an
19 alternative that nobody's had an opportunity to comment on.

20 MR. GOLL: Part of what we need to evaluate, there's
21 the issue of subsistence in the vicinity of Cross Island. So
22 in a sense, the exact -- we have to deal with the issue, not
23 necessarily the exact wording we get from a particular group.
24 So the issue is the concern over subsistence within, you know,
25 and near Cross Island, you know, is the concerns that Thomas

1 and others have been expressing.

2 Now, the exact form of what we would evaluate, in a
3 sense, is up to us. And that's what, again, the advice we were
4 looking from this group, to try to define, okay, there is this
5 issue with regard to the concerns, again, from Nuiqsut, the
6 Whaling Captains, and the effect on industry activity with
7 regard to the bowhead whale. And what they -- they've declared
8 that as an issue, and what they've brought up is one appro- --
9 well, their -- the approach they would like to see is the
10 deferral of this area.

11 Now, if there is some other approach to try to
12 address the same issue, yes, we can evaluate that. And if this
13 group, again, has a proposal there, which, I think earlier
14 there was a discussion of the State -- well, I guess what the
15 State ended up with, with regard to Cross Island. Tom.

16 MR. LOHMAN: And to get to the issue of it being the
17 first time it was raised, the meeting that we had -- Thomas may
18 help me out -- May 20th, I think, with the State on Lease Sale
19 86, and we had, you know, folks from ARCO, BP, Pete was there,
20 and folks from AOGA, and we talked about the Nuiqsut deferral
21 area, the Cross Island deferral area, and the need to expand
22 it. And there was discussion then of six to ten miles. So
23 that was raised for the first time on May 20, or at least
24 was -- the 10-mile area was first discussed on May 20th.

25 At the MMS public hearing in Anchorage on Sale 170 in

1 this room, there was a map on that wall where they had, I
2 think, shaded in yellow the issues raised at the Lease Sale
3 meeting a week earlier. So it was raised then. At the
4 elevation meeting on the 10th, which was the same morning of
5 the evening meeting scheduled in Barrow on Sale 170, we had our
6 elevation meeting on Sale 86 where industry was present, and
7 the Division of Oil & Gas, you know, I was in their offices
8 with Ken and the rest of them, and we said, 'We're going to
9 bring these all up at the meeting tonight in Barrow.' And then,
10 of course, the meeting in Barrow didn't happen quite the way a
11 lot of us expected.

12 But people were on notice then that we were going to
13 discuss trying to make consistent our Sale 170 and our Sale 86
14 requests for a reasonable way to protect the subsistence
15 activities in the area around Cross Island, as John just said.
16 And, you know, my understanding is the issue has been raised
17 certainly several times now, dating back a month and a half,
18 and that their evaluation can do a number of things. They can
19 say, 'We're evaluating,' as John said, 'the need to protect
20 subsistence, or the desire to protect subsistence activities
21 and whales around Cross Island.'

22 The Borough has raised the issue of a 10-mile
23 deferral. Other ways of addressing it have been suggested,
24 including a prohibition on service facilities and so on. Part
25 of your evaluation will be to discuss that range of

1 possibilities, I think. And I think we've done a pretty good
2 job of fleshing out what that range is, which is what this
3 group is for, I think. So I think we've defined, maybe, the
4 range of things you'll evaluate under the heading of protecting
5 Nuiqsut subsistence.

6 MR. ZSELECZKY: Well, I agree with what you've said.
7 I'd like to add to that though. I think, you know,
8 representing the other companies who aren't here, you know,
9 they had this document to refer to, and there were three
10 alternatives listed, and none of them talked about a Nuiqsut
11 deferral.

12 Now, even if they were at those meetings -- one or
13 two might have been, but a lot of them weren't -- even if they
14 were at those meetings, their expectation would not be, all of
15 a sudden, that Alternative 4 shows up, which is the Nuiqsut
16 deferral. Their expectation would probably be, 'We need to pay
17 attention to the Cross Island area as a unique area that
18 warrants special attention.' And how do we normally do this
19 through a lease sale? And that's through stipulations and
20 mitigation measures.

21 So although I think, you know, see these issues did
22 come up in those meetings, it wouldn't be reasonable to expect
23 those other industry members to respond to a Nuiqsut deferral
24 today. They really did not have any forewarning.

25 MR. LOHMAN: We were under the mistaken impression

1 that you guys all talk to each other all the time. Which is
2 one of the issues we raised in the Sale 86, was there'd bee:
3 discussion of Sale 86 at the AOGA meeting the day before we had
4 our big meeting with the State, which I don't want to get into,
5 but that.....

6 MR. ZSELECZKY: When I talked with these guys,
7 they -- you know, they looked at this, and there's Stipulation
8 5 that says you need to work something out with the whalers,
9 and they said, 'Yes, we agree.' And it's in there. And so
10 their expectation is, yes, there's a mechanism already. But
11 today, what we're hearing -- and these guys aren't here to
12 defend themselves -- that there's something new, and we haven't
13 had a chance to look at it.

14 MR. COUGHLIN: And I would also refer to page 1-6, --
15 which talks about deleting blocks within a 50-mile radius of
16 Cross Island, and it basically says that alternative isn't
17 going to be considered. It says, instead, the City of Nuiqsut
18 and North Slope Borough representatives believe that developing
19 additional stipulations provide greater protection.

20 MR. ZSELECZKY: Yeah, I think, you know, if you had
21 the industry here, what they'd say is, 'We don't want to buy
22 leases that we can't develop. We want to work it out.' But
23 they're not here.

24 MR. SOUSA: In terms of the EIS process, could you
25 not also include under the Alternative 1 some of the additional

1 stips, the ones that Pat's talked about in terms of no surface
2 entry in this area? I mean, could you redefine Alternative 1 a
3 little bit to sort of take the other viewpoint that's been
4 presented?

5 MR. GOLL: What we could do is come up with another,
6 I'll say, alternative. I'm not.....

7 MR. SOUSA: 1-A or something.

8 MR. GOLL: Well, some other approach to address the
9 issue, you know, the way it was being discussed earlier.

10 MR. COUGHLIN: I guess to address Mr. Lohman's
11 comment, it was not -- if, in other words, you're -- if this
12 issue, raising it and considering it as an additional
13 alternative, that is, a complete exclusion for 10 miles, if it
14 would be within your authority when you publish a final to, for
15 example, say, 'This is the alternative we're going to put into
16 the final, is, you know, the State alternative,' in essence,
17 which is no permanent siting, unless -- in other words,
18 unless -- let's just say, 'unless you have agreement,' just to
19 be -- 'from the whaling community.'

20 Is that have to be a spec- -- I'm asking, does that
21 have to be a specifically identified option for you to consider
22 now, or is it within the breadth and scope of this? That's all
23 I'd like to know.

24 MR. GOLL: If, let's say -- say if the Secretary
25 wanted to make a decision of what we were talking earlier about

1 still allowing leasing but not allowing development, that would
2 have to be evaluated in the EIS. So in other words, any
3 decision that is made has to be reflected in the EIS. It does
4 not necessarily mean all the time it has to be exactly the
5 words there, but it's got to be really close. Otherwise, if
6 one gets sued, you're going to lose on NEPA grounds.

7 So I guess what I'm saying here is one separate
8 alternative that would be considered, you know, a separate
9 decision, if let's say the decision is to go ahead with the
10 sale, and one wanted to consider to include a Cross Island
11 deferral or not, or some approach to deal with that issue, is
12 you would have to have those approaches evaluated within the
13 EIS. So we can evaluate the Cross Island deferral as the North
14 Slope Borough has requested. Likewise, we could also evaluate
15 within the EIS, the final EIS, the approach that seems to be
16 being followed by the State, for the State sale.

17 Now, in the end, a decision will still have to be
18 made of which one of those approaches would be followed.

19 MR. GRAY: Yeah, what I heard from you earlier is
20 that you have to evaluate something to do with this deferral
21 area, and what I might suggest is if you can do both, like you
22 just said, go ahead and do it. If you can look at a deferral
23 that's proposed by the North Slope folks and maybe look at
24 other options that may reach the same interests, such as what
25 the State came up with in Lease Sale 86, or maybe some other

1 mitigations measures that would even be better, if they're out
2 there. If you can, and it's not too much work, I would say
3 evaluate both of those.

4 MR. GOLL: Comment?

5 MR. ZSELECZKY: Is it possible to have -- this is a
6 naive question, I'm sorry. Is it possible to have a
7 stipulation related to Cross Island directly?

8 MR. GRAY: Sure.

9 MR. ZSELECZKY: In other words, Stipulation No., you
10 know, 12-A, Cross Island Special Habitat Zone, Special Whaling
11 Zone, or something like that.

12 MR. GOLL: That's probably what it would look like, I
13 would -- again, by the discussion we were having earlier.
14 'Cause in one sense, it's not a deferral per se, but it is
15 definitely requirements with regard to that area that we would
16 have to evaluate.

17 MR. EAGLETON: If you had it as a stipulation,
18 though, it won't be looked at as an alternative. It would be
19 part of the lease no matter what. Right?

20 MR. GOLL: We would have to make it clear that this
21 is to deal with this particular issue. So, 'cause again, you
22 wouldn't necessarily select that as a stipulation in the end.
23 It can be -- those also could be separate -- you know, that
24 could be separated.

25 MR. ZSELECZKY: Yeah, I was thinking of prior sales

1 where stipulations attached to certain leases were different
2 depending on where they were in the whale migration area,
3 because of timing. And so maybe here we could have, within a
4 10-mile radius, stipulations attached to those leases that
5 satisfied the whalers' concerns. And in the end of the day, if
6 they couldn't satisfy their concerns, then the lessees are
7 stuck. We really can't develop unless they could do it off-
8 site, as Pat suggested, or, you know, unobtrusively in some
9 way.

10 MR. FOLEY: But that exact language would have to
11 appear -- or nearly exact language -- would have to appear in
12 the final EIS? That's a question.

13 MR. GOLL: Yes.

14 MR. FOLEY: Okay. And you're looking for this group
15 to provide a recommendation of what that language should look
16 like?

17 MR. GOLL: If you can do it, yes. Or else you tell
18 us to come up with it. I mean, again, we're looking for
19 advice. If you're able to offer the advice, good. Or if you
20 offer the advice of the sense of what it is, then yeah, part of
21 it, you'd have to trust us, or that's where, again, we can, you
22 know, discuss with you as we're developing language.

23 MR. FOLEY: Okay. Let me take a crack at it. I
24 mean, conceptually, for any deferral area, there are really
25 three alternatives. One is just a flat excluded from the sale.

1 Two is, no, we're going to ignore it and we're just going to
2 offer it, and it's going to be subject to this Mitigation
3 Measure No. 5. Then I'd argue there's a third alternative, and
4 that is, like Pete described, maybe we -- and maybe it's as
5 flat as no surface entry, or maybe it's something a little
6 softer.

7 If it says surface entry will be prohibited unless
8 you can satisfy the field supervisor that it will not have an
9 impact on -- see, I'm not exactly sure what we're trying to
10 avoid. Is it noise? Is that the sole issue that we're trying
11 to address here? I mean, that's the only thing that I've heard
12 that anybody's identified yet, that they're concerned that
13 drilling and production operations, that the noise from those
14 operations would impact the whales. Is that -- I apologize if
15 I'm over-simplifying it.

16 MR. FENTON REXFORD: Yeah, cultural grounds, I'm
17 sure, is a very important factor for Cross Island. It ties on
18 with the hunt of the bowhead, not only.....

19 MR. FOLEY: I mean, Cross Island itself is not in the
20 sale area.

21 MR. GRAY: Right. And three miles around it is not.

22 MR. FOLEY: Correct. I mean, I'm not trying to be
23 argumentative. I'm genuinely trying to find a solution.

24 MR. BURTON REXFORD: Cross Island is not on sale?

25 MR. GRAY: No. No.

1 MR. GOLL: That's in the State sale.

2 MR. COUGHLIN: Here -- can I just -- here's what I
3 hearing. On the one hand, the one position is that we simply
4 defer the acreage, and that it not be included in the sale.
5 And then I'm hearing industry say, 'Gee, you know, we'd like to
6 work it out.' And that seems to already be accomplished by
7 Stipulation No. 5. So it seems like industry's position, at
8 least that I hear articulated, is already going to be part of
9 the evaluation.

10 And what I would say, it's somewhat akin to what Pat
11 was saying, would be it seems like there's also the possibility
12 that there's something in between those two that would be --
13 that may be good enough. And that is something that you
14 evaluate the complete deferral; that you evaluate an
15 alternative between complete deferral and Stipulation No. 5,
16 which may basically has as a starting point language similar to
17 what the State's says, which is, you know, no permanent siting;
18 and that, you know, that MMS try to come up with an
19 intermediate position, and that those would be the positions
20 that would be considered in the EIS.

21 Otherwise, we're going to sit here for two more days
22 and try to negotiate something that's in the middle.

23 MR. GOLL: Okay. What exactly, again, was the State
24 proposal?

25 MR. COUGHLIN: In this?

1 MR. GOLL: No exploration within the migration
2 season?

3 MR. GRAY: No, no, no. No permanent facilities.

4 MR. COUGHLIN: Well, yeah, I think it has to be read
5 in conjunction with the other stipulations that already exist
6 in State waters. But, I mean, I think -- I know Tom Lohman is
7 right; it actually sort of gives a -- you know, more of a trump
8 card, I should say, to the whaling community. And I think that
9 was the intent.

10 And -- but I will say, you know, what it says, if I
11 can find it.

12 (Pause)

13 MR. COUGHLIN: It says:

14 "Permanent facility siting in State waters
15 within three miles of Cross Island will be
16 prohibited unless the lessee demonstrates to the
17 satisfaction of the Director, in consultation
18 with the North Slope Borough, that development
19 will not preclude reasonable access to whales as
20 defined in the North Slope Borough's policy
21 statement and as defined in its Municipal Code,
22 and as may be determined in a conflict avoidance
23 agreement if required by the Borough."

24 But what I also understand the whaling community to
25 be saying today is that they actually have even more power, or

1 a bigger trump card, in State waters that they don't have --
2 they wouldn't have in that. And what they're looking for
3 are -- and I'm not -- not that what they're looking for, but
4 that another option to be considered is something that shifts
5 whatever power you have, in essence, your retaining power under
6 Stipulation 5, it shifts it over to them, to the maximum, you
7 know, extent possible without abrogating your authorities.

8 And so I guess if we need a proposal, my proposal
9 would be, one, that you consider a complete deferral, and two,
10 that you consider another alternative to a complete deferral,
11 which is somewhat along the lines of the State's -- of what the
12 State did. And if we want to sit around and talk about exactly
13 what that language could be, I guess I'm willing to sit here
14 and do it. Or alternatively, we could ask that you follow our
15 guidance and try to do it. That would be my proposal.

16 MR. GOLL: What are the restrictions for exploration?
17 Are there -- they listed there? Or would, again, it be.....

18 MR. GRAY: Not in that mitigation measure. It would
19 be a different one.

20 MR. COUGHLIN: It would be a different mitigation
21 measure.

22 MR. GOLL: So again, there would be a prohibition
23 of -- I'm just asking.....

24 MR. COUGHLIN: Sure.

25 MR. GOLL:exploration during the migration?

1 MR. COUGHLIN: Absolutely. So there would be all the
2 other prohibitions.

3 MR. LOHMAN: And again, we have.....

4 MR. COUGHLIN: And they have.....

5 MR. LOHMAN:regs and permitting authority, and
6 in most cases, we would require, if it's somewhere upstream of
7 a whaling community, a conflict avoidance type arrangement to
8 be in place. Essentially, we'd require a Stip 5 type
9 situation.

10 MR. EAGLETON: Would we be having this same
11 discussion if it was up in the corner?

12 MR. GOLL: Which corner?

13 MR. EAGLETON: Up there, like 6212 and 6213 and those
14 five or six blocks, would we be having this same, or is there
15 some feeling that this area around Cross Island is not worth
16 looking at for another 10 years, but the edges of it are worth
17 looking into, like Pat was saying here? And then after that,
18 they would maybe -- well, there is something in there. Maybe
19 we should -- we can look at that with some new technology. Do
20 you see what I'm saying? I mean.....

21 MR. LOHMAN: The fact that they bought leases in 144
22 gives you an indication, I guess. You look at the blue, and it
23 tells you where industry is interested.

24 MR. EAGLETON: That's what I'm saying.

25 MR. LOHMAN: Yeah.

1 MR. ZSELECZKY: But that's a hard one, though I'll
2 react to, because if you looked at the area before 144 and
3 said, 'Well, what are they going to bid on in 144?' you
4 wouldn't have come up with that conclusion.

5 MR. GRAY: Mm hmm (affirmative).

6 MR. ZSELECZKY: So technology's advancing; interest
7 advances, it changes really. It's a predictor, but not a very
8 good one, I don't think.

9 MR. EAGLETON: I mean, 'cause I guess if I can
10 envision this, this deferment zone, I mean, knowing
11 exploration, they can go right up to the edge of that with a
12 GPS and work the very edges of that and into it without
13 touching the surface. And as the clock goes by, and I can't
14 see, in that 10 years of my next life, of them coming up with
15 something so technology-advanced that they could do that. I
16 just can't see that happening.

17 I mean, in the last 10 years, they've come up with
18 diagonal drilling, but it's still not used to its best
19 advantage. In the next 10 years, they're not going to come up
20 with something totally crazily done. This is not going to -- I
21 don't see it advancing that fast.

22 MR. ZSELECZKY: Well, I can give you an example,
23 though, of the frustration. If you take Sale 144 and the
24 deferral that occurred in that, which was from Kaktovik over, I
25 can say that was an area BP had some interest in, but it was

1 deferred or, rather, excluded from the sale. I can tell you,
2 we're not going to expend any money, effort, people, time. To
3 us, we have no idea when that's going to come up again, and we
4 won't even look at it.

5 MR. EAGLETON: You're not going to explore the
6 perimeter of it -- the edge of it, in State or federal water?

7 MR. ZSELECZKY: No. But it's just, you know, someone
8 said, 'Sorry, we'll lose this,' you know, not just BP.

9 MR. EAGLETON: Well, I know, but, I mean, your job is
10 to do that to its best effect, but mine is totally the other
11 way. So I have to have the best public's interest in that too.

12 MR. GRAY: Well, getting back to what we were
13 discussing, it sounds to me we had a proposal on the table
14 to -- for MMS to both look at an entire deferral as well as
15 other mitigating measures such as the ones used by the State.
16 Is that something everyone can live with? Again, we're not
17 talking about the decision here, we're talking about
18 consideration.

19 MR. LOHMAN: But I think doing what the middle Pat --
20 there's too many Pats. Doing what Pat said, which is, first,
21 defining the concern, you know, and then, with reference to the
22 concern, can you get at the concern by -- certainly you can get
23 at the concern by outright deferral. Can you get at the
24 concern with something less? And that's the analysis.

25 MR. GRAY: Absolutely.

1 MR. LOHMAN: And what's the minimum you have to do to
2 get at the concern, I guess, would be the -- MMS's mandated
3 approach.

4 MR. ZSELECZKY: Well, and all concerns, not just the
5 Borough's.

6 MR. LOHMAN: All concerns, exactly.

7 MR. ZSELECZKY: You know, that's the reason we're
8 here. We're a bunch of different stakeholders. So I would say
9 get as many of the stakeholders' concerns as you can. And if
10 there's a method to -- that meets in the middle, that's really
11 what our job is.

12 MR. GOLL: Well, then I guess what I am hearing,
13 again, we -- I'll lay this on the table. We'll evaluate both
14 approaches. Again, that's not saying what the decision is, but
15 we would evaluate both approaches. Because, again, there --
16 that's acceptable, we've -- I think it's, again, clear of what
17 the 10-mile -- I mean, that will be relatively simply into the
18 deferral approach. We'll work with Pat on using similar
19 language as was done for the State sale, working with Pat
20 Coughlin and whoever else we need to, to define that, if that
21 is acceptable.

22 (No audible response)

23 MR. GOLL: Is that a yes or.....

24 MR. COUGHLIN: Yeah.

25 MR. GRAY: Yes.

1 MR. ZSELECZKY: Yes.

2 MR. FENTON REXFORD: As far as EISs go, once the
3 deadline for comments and you come up with new alternatives, or
4 can that happen, or are we restricted to.....

5 MR. GOLL: This being an advisory group, we can use
6 the information.

7 MR. FENTON REXFORD: Well, from the comments or
8 industry and people had the opportunity to come up with Nuiqsut
9 deferral or other types of -- within the lease sale tract area;
10 right?

11 MR. GOLL: Well, we can address, again, things that
12 were raised in the comments from people. And again, the issue
13 was to have.....

14 MR. FENTON REXFORD: Would you still have three
15 alternatives or one alternative with 12-A, or, I mean, 1-A,
16 1-B?

17 MR. GOLL: They'll be numbered something, yeah. Like
18 again, what normally happens is, is the proposal is the area in
19 the red, and then we would have other options that the
20 Secretary can choose from. So in the end, he can do any
21 combination of those.

22 MR. FENTON REXFORD: Yeah, I just wanted that clear
23 'cause a question was brought up if we knew something about a
24 Nuiqsut deferral, we could have had -- you know, we're being
25 left out. What they've -- you know, I want to hear the other

1 side too. They were given an opportunity. Now with the
2 comments that we have, we can work with what we have on the
3 table, right, and come up with an alternative with a sub
4 or.....

5 MR. GOLL: That's.....

6 MR. FENTON REXFORD:with a sub-unit or
7 something?

8 MR. GOLL: Yes.

9 MR. FENTON REXFORD: Okay. I just wanted that clear.
10 I don't want.....

11 MR. GOLL: So we can evaluate, again, what Nuiqsut
12 has proposed, the North Slope Borough has proposed. And again,
13 to try to address the same issue, we can also evaluate the
14 other proposal. Now, in the end, you end up choosing one or
15 the other or none of the above. You know. Either you
16 don't.....

17 MR. FENTON REXFORD: Then the final EIS will have
18 something with Kaktovik deferral in addition to Nuiqsut
19 deferral for the final public comment; right?

20 MR. GOLL: That's correct.

21 MR. FENTON REXFORD: Okay. That's what we.....

22 MR. GOLL: The final -- in a sense, there is no final
23 public comment on the final EIS. We cannot make a.....

24 MR. FENTON REXFORD: There is no.....

25 MR. GOLL: No. There.....

1 MR. FENTON REXFORD: There is no final.....

2 MR. GOLL: There -- this group, again, will be able
3 to meet after we're done with the final EIS to give more
4 advice. And.....

5 MR. FENTON REXFORD: So there is no comment period
6 for the final.

7 MR. GOLL: It goes to the -- that's where it goes, to
8 the Governor, again, as Tom Warren was trying to explain on the
9 front.

10 People will comment once the final EIS come out. You
11 know, we often do get letters in from people. And the
12 requirement is you cannot make a decision within 30 days of the
13 final EIS being released. Now, again, as noted on that chart
14 there, our decision process is a lot longer than that. It has
15 to go through consistency, coastal consistency, and, you know,
16 our approach has to be addressed by the Governor also.

17 MR. GRAY: And just to clarify that, so there'd be
18 two opportunities for the Borough to have input. One is for
19 the Governor's Section 19 comments, and second would be for the
20 coastal consistency determination. And the Governor always
21 works with the Borough on that. But you would have to work
22 through the Borough if you want to get your input into there.

23 MR. GOLL: So if I can summarize, we'll evaluate both
24 approaches.

25 MR. FOLEY: For both deferral areas, the Cross Island

1 area and Kaktovik?

2 MR. GOLL: Well, we weren't talking Kaktovik yet.
3 This is just Cross Island.

4 We're 20 after 4:00. I did -- and I guess I have to
5 do this. If there's any member of the public that does want to
6 make a statement or comment, if there's any we've already had.

7 MR. COUGHLIN: Tom?

8 MR. GOLL: Tom.

9 (Laughter, side comments)

10 MR. GOLL: Should we plow on? The next area was the
11 area, Kaktovik area in the area of the Arctic Refuge. Again,
12 there were requests there. Most of the comments we did receive
13 were aimed at -- the issue was protection of the Arctic
14 National Wildlife Refuge, that there was a concern that
15 activity off of the Refuge might affect the Refuge. Pat, if
16 you want to.....

17 MR. SOUSA: Oh, yes, going to comment, and I had --
18 I've spoken with you. I have some personal reasons for just as
19 soon leaving it till tomorrow because I need to catch a flight
20 back to Fairbanks this evening and then come back tomorrow.

21 But I think some of the argu- -- or some of the
22 discussions, I think, are going to go very much along the same
23 lines as the discussions we've had concerning the Cross Island
24 deferral. And I would think we'd want to not get started on
25 those if we only have a half-hour to get them.

1 What might be useful since I -- at least I have not
2 had a chance to look at the other comments. I know the
3 comments we made, and we advised -- recommended extending that
4 deferral area over to the Staines. I don't know what the gist
5 of the other comments were relating to Arctic Refuge, and I
6 don't know if there's somebody who can summarize those very
7 quickly, or if it's just something we just need to take a look
8 at tonight so we have a feel for what else -- what the other
9 concerns are.

10 I suspect most of those concerns came from
11 environmental organizations, and they are not represented here.
12 And so I -- personally, I'd like to know, either by reading or
13 by getting a summary, the gist of what those comments are.

14 MR. FENTON REXFORD: Just the beginning of the black
15 one, I think there's just some -- a one-word or two-word
16 summary.

17 MR. GOLL: Yes.

18 MR. ZSELECZKY: There was something in here to that
19 effect.

20 MR. SOUSA: Yes. "Protect ANWR." "Protect ANWR."
21 "Protect ANWR."

22 MR. GOLL: Most of the comments were -- there was a
23 good number of comments that like were one page or less, and it
24 was primarily comments on protecting, again, the Refuge, the
25 caribou, and other, you know, habitat and the -- you know,

1 along that line, coming from, you know, various communities
2 also and, you know, people across the country.

3 MR. SOUSA: There were also some substantial comments
4 in there as well, not just the postcard variety, but I saw one
5 in there from Trustees for Alaska, which was substantial.

6 MR. GOLL: There was a concern -- okay. With regard
7 to, for example, the Trustees of Alaska and others were
8 concerned about whether, again, the technology for pipelines
9 was available to be able to develop anything off of the Refuge.
10 You know, again, because no activity could be allowed within
11 the Refuge, based on, I guess, Refuge law and Fish and Wildlife
12 Service controls that area, that there would be no pipelines be
13 able to come on shore and, likewise, no support bases.

14 So some people were questioning, then, whether
15 there -- activity could occur there in the future, whether the
16 technology was available to allow sub-sea pipelines,
17 essentially, to run from this area, you know, in the Kaktovik
18 area plus all -- you know, the area off of the Refuge. Well,
19 that was one of the major points I think they were raising, in
20 addition to the compatibility of activity off of the Arctic
21 National Wildlife Refuge, was a -- I think, another theme that
22 was in the comments.

23 Is there -- do we want to continue this discussion
24 or, again, postpone this until tomorrow? We've got about 30
25 more minutes of at least our scheduled time.

1 MR. NAPAGEAK: Postpone it till tomorrow.

2 MR. GOLL: Pardon?

3 MR. NAPAGEAK: Postpone it till tomorrow.

4 MR. SOUSA: Is there a reason -- or is there any
5 reason that we couldn't get started earlier tomorrow? Is it
6 9:00 o'clock for a particular reason?

7 MR. GOLL: Would there be any problem with the
8 notice? There wouldn't. We could if people are available.

9 MR. SOUSA: If we're thinking -- and if you have a
10 better feel for what else remain to be accomplished for this
11 meeting, but I wonder if three hours is going to do it given
12 the time it's taken to get to this point.

13 MR. GOLL: Depends, I guess, on what we learned
14 today.

15 (Laughter)

16 MR. GOLL: On discussing. Again, from what I saw,
17 there was the how to approach the issue that -- you know, with
18 regard to the Refuge, whether to include, again, an
19 alternative, and if so, you know, what that would look like.
20 It might be a very simple thing, you know, to include another
21 alternative that would include the area that is not included in
22 the Kaktovik area.

23 MR. COUGHLIN: Can I ask a question?

24 MR. GOLL: Yes.

25 MR. COUGHLIN: I just would like to know did U.S.

1 received from Fish and Wildlife Service that due to the
2 maybe -- there's a tension there now because there was some
3 activity. And I think that's what was stated in the letter,
4 that maybe people were -- well, maybe I'm putting words in your
5 mouth, but there was not really -- well, Jim.

6 MR. KURTH: Yeah, I can take a stab at that. It's
7 just like everybody at the table, your resources are limited on
8 what you can look at. And quite frankly, the focus that was
9 placed on the coastal areas off the Refuge, because originally
10 before this, the litigation between the State of Alaska and the
11 United States on ownership of submerged lands focused a lot of
12 our resources there. We began to have concerns whether or not
13 the protection of the Refuge had been adequately laid out in
14 these documents the Department produced.

15 I think when we get into the discussion tomorrow --
16 and Pat will represent the Service -- I think you'll see that
17 there's differences in the concerns and why we raised them
18 within the Fish and Wildlife Service and then those the
19 environmental community laid out. We just have some concerns
20 whether or not we fully evaluate how you produce out there
21 without any onshore infrastructure, and we don't think we're
22 there.

23 But the reason we didn't make some of these comments
24 before, largely, is we hadn't looked at this area as closely
25 because issues come up that focused us there.

1 MR. BROCK: John, at the scoping meeting and whatnot
2 on 170 -- and anybody here that's at any of those, correct?
3 if I'm misstating something, but I -- as I recall it, the --
4 like he just said, that there -- the real issue not -- the
5 issue that's now come up is the protection of ANWR, and that
6 was not an issue at the time we scoped 170 particularly.
7 Right? There was a lot of talk about the feeding study and the
8 protection clear over to the Canyon River, but as I recall,
9 there was numerous different lines that were drawn by numerous
10 different people, and that's the one we selected to analyze the
11 deferral alternative.

12 MR. EMERSON: If you look -- one of the rationales,
13 too, if you look beyond the green area, if you use the map
14 there on the wall, you can see that, at the time, most of the
15 area, probably 50 percent of it, was -- already had been
16 leased. And so it seemed like kind of difficult, more of an
17 unlikely decision to be presenting a deferral option when half
18 of it was already quite well along in leasing.

19 So what we've got there is a cleaner set of blocks,
20 where there is no activity, at least at this point in time, and
21 so the decision is thought to have been more easy to deal with
22 in terms of the activities ongoing or proposed. We've got
23 that -- further over to the Canyon, why, you've got a Kuvlum
24 and some on that -- a couple of blocks, I guess, are being
25 relinquished soon, but still you have development in that

1 extended area, and that was part of it all. And that's why the
2 line is white at that point.

3 MR. BROCK: Well, there was a number of reasons for
4 doing that; no one was specific.

5 MR. GOLL: Want to proceed now or.....

6 MR. EMERSON: In terms of what the ANWR protection is
7 concerned with, it's like primarily the Porcupine caribou herd
8 is an associated resource with that, and those two things kind
9 of -- when one is implying the other, oftentimes the
10 commenters. And that herd, the stability of that herd,
11 primarily calving and so on, could be -- calving activity could
12 be affected. But the -- in terms of our activities going
13 onshore with an oil spill there, it would be primary doing the
14 insect relief, but as I mentioned, the activities that move the
15 herd in that direction.

16 But it's a large herd, about 170,000 critters, I
17 believe, and it's not in any trends up or down. It's been
18 somewhat stable in its population. That's the key resource, I
19 believe, associated with that, and it's a subsistence activity
20 also included in that. Was there an earlier question?

21 MR. GOLL: The question was, yeah, what were the
22 issues that people were raising?

23 MR. EMERSON: The caribou herd comes with Canada's
24 concerns since it moves and migrates into their sector, and so
25 that creates additional concern, and what happens to the

1 calving grounds here on our side. It's international in scope.

2 MR. GOLL: Was the impact -- well, maybe this is a
3 clarifying question of whether this was identified in the
4 comments. The effect of caribou, how would that happen? What
5 were.....

6 MR. EMERSON: It would have been -- it's the oil
7 spill and the timing in which they would be on the coast for
8 their insect relief. They move -- the insects, as we know, the
9 insects, the mosquitos, drive them to the coast, and they can
10 get away from them in that area because it's the primary area
11 and so on where the breezes and so on that evidently even the
12 Alaskan mosquito can't deal with.

13 MR. GOLL: So what we would.....

14 MR. EMERSON: So we're talking oil spill on the
15 intervening coastal area, potentially. But our projectories
16 goes not necessarily that way, more east to west in that
17 general circulation area.

18 MR. GOLL: So again, maybe to frame the question,
19 we -- there were a number of comments, again, also from Fish
20 and Wildlife Service, requesting some kind of a deferral with
21 regard to the issue being the Arctic National Wildlife Refuge.
22 So the question I would be asking the group, again, is, What
23 form would that take? Again, to my recollection, as I was
24 reading through the comments, there was not a definition of
25 exactly what it would be, you know, whether.....

1 MR. SOUSA: You know, in Fish and Wildlife Service's
2 comments, we did state what it was that we felt -- the reasons
3 that we were deferring. And that is, basically, the reflection
4 of the situation that exists there where support facilities are
5 not going to be -- are not permitted under -- on the Refuge
6 under existing law. So, I mean, there is a basis for the
7 recommendation, if that's what you're.....

8 MR. GOLL: Well, what I meant, outside of saying
9 extended over to near the Canning River, Staines River, there
10 wasn't a definition of how far out or anything of that nature.

11 MR. SOUSA: Mm hmm (affirmative).

12 MR. GOLL: So again, one could simply draw a line, as
13 we did earlier, to the north and develop an alternative
14 centered around that. And that could be very simple and we'd
15 end discussion, or are there other things, again, that would
16 need to be talked about?

17 MR. SOUSA: Well, again, I'm not certain what the
18 other commenters provided in terms of reasoning. The concerns
19 that we have really don't have as much to do with distance from
20 shore so much as it does with the transport of oil, where that
21 oil is transported to, whether it's transported to a Flaxman
22 Island facility or whether it's going to go all the way to --
23 offshore to Endicott or some such thing.

24 So the concerns that we have raised, and the reason
25 we're asking for a deferral until those concerns are addressed,

1 really don't have a whole lot to do with distance from the
2 coast. But again, I don't know what the other -- you know,
3 what other commenters may have put in there.

4 MR. GOLL: So it sounds like you'd want some
5 discussion tomorrow with regard, again, to capability of
6 pipelines and sort of the technology.

7 MR. SOUSA: Mm hmm (affirmative).

8 MR. GOLL: Is it do-able now, or what does the future
9 look like?

10 MR. SOUSA: Right.

11 MR. EMERSON: If you'd like to look that letter over,
12 that's No. 125 in your notebook, the Fish and Wildlife letter.

13 MR. SOUSA: And it's a fairly lengthy letter. I'd
14 suggest the first two pages are all you really need to look at.
15 We tried to put the gist of it right up front.

16 MR. GOLL: Others were comments on the EIS itself, a
17 lot of, you know, technical comments, as I recall.

18 MR. SOUSA: Yeah.

19 MR. GOLL: Does anybody want to start discussion, or
20 do you have to escape again, Pat?

21 MR. COUGHLIN: Yeah, I've got a flight in about 40
22 minutes.

23 MR. GOLL: Okay.

24 MR. COUGHLIN: But if we want to keep going, that's
25 fine too.

1 MR. GOLL: Okay. What's the consensus of the group?

2 MR. GRAY: I'd like to have a chance to read the
3 comments. I think that'd be more helpful.

4 MR. GOLL: Okay. Would we want to adjourn now and
5 then start earlier in the morning, say 8:00 o'clock? You know,
6 we can also continue beyond noon, you know, if needed. Any
7 comments?

8 MR. COUGHLIN: Well, my preference would be to begin
9 at 9:00 since I would like to.....

10 MR. BURTON REXFORD: 8:30?

11 MR. COUGHLIN: 9:00. Because I would like to have
12 the opportunity to stop by my office and take care of some
13 business.

14 MR. BURTON REXFORD: We'll start at the regular time.

15 MR. GOLL: 9:00 o'clock?

16 MR. BURTON REXFORD: The regular time, that's 8:30.

17 (Laughter)

18 MR. FENTON REXFORD: The earlier, the better.

19 MR. GOLL: Well, we've heard both. Earlier or later?

20 MR. GRAY: Is 8:30 a good compromise then?

21 MR. GOLL: 8:30. Excellent.

22 MR. COUGHLIN: I just need 15 minutes.

23 MR. GRAY: Yeah, I could use that too.

24 MR. GOLL: Shall we adjourn, or do you want to deal
25 with any of the other -- maybe go through....

1 MR. EMERSON: One sugge- -- oh, yeah, that's a good
2 idea. We'll follow through on that.

3 MR. GOLL: We do need to wrap up a look at the
4 stipulations unless, again, people feel those are okay. That'
5 the other question we did have.

6 (Pause - Side conversations)

7 MR. GOLL: Hearing nothing.....

8 (Laughter)

9 MR. GOLL: Are there any logistical questions before
10 we adjourn and before people start running out?

11 Michele, again, are there any?

12 MS. HOPE: Can Pat get here by 8:30? Does that work
13 okay?

14 MR. COUGHLIN: Yeah.

15 MR. SOUSA: Yeah, that works for me.

16 MR. COUGHLIN: That ought to work. I'm on the 6:15
17 flight, so.....

18 MR. SOUSA: Wrong Pat.

19 (Side comments)

20 MR. EMERSON: In your handout is this summary of the
21 written comments, and if you just -- it says "Sequential." So
22 let's see. If you want to look at NOAA's comments, it'd be the
23 second one down here, so it'd be No. 2 in your notebook there
24 of comments. If you wanted to find -- read -- you can see a
25 lot of these are from individuals from all over the United

1 States on ANWR. That's possibly the Sierra Club primarily, but
2 also you want to look at Trustees for Alaska at page number
3 129, that's the last one, or possibly 130, and so on. So this
4 is sequential; you can pick the person or comments there.

5 MR. GOLL: Well, I thank everybody for their
6 forbearance today. This is -- again, this is a new experience,
7 a new group, so we're sort of learning our way through.

8 We'll adjourn until 8:30 tomorrow.

9
10 (Whereupon, the proceedings in the above matter were
11 recessed at 4:49 p.m., until 8:30 a.m. on Wednesday,
12 August 6, 1997)

C E R T I F I C A T I O N

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)
_____)

I, CINDY S. CARL, do hereby certify:

(1) That the foregoing pages contain a full, true, and correct transcript of proceedings in the above-entitled matter, transcribed by me, or at my direction and supervision, to the best of my knowledge and ability.

(2) That I have been certified for transcript services by the United States Courts.

(3) That I was certified for transcript services by the Alaska Court System prior to January 1, 1993.

SIGNED AND CERTIFIED:

BY: Cindy S. Carl
Cindy S. Carl
Certified Court Reporter

DATE: 8/14/97

